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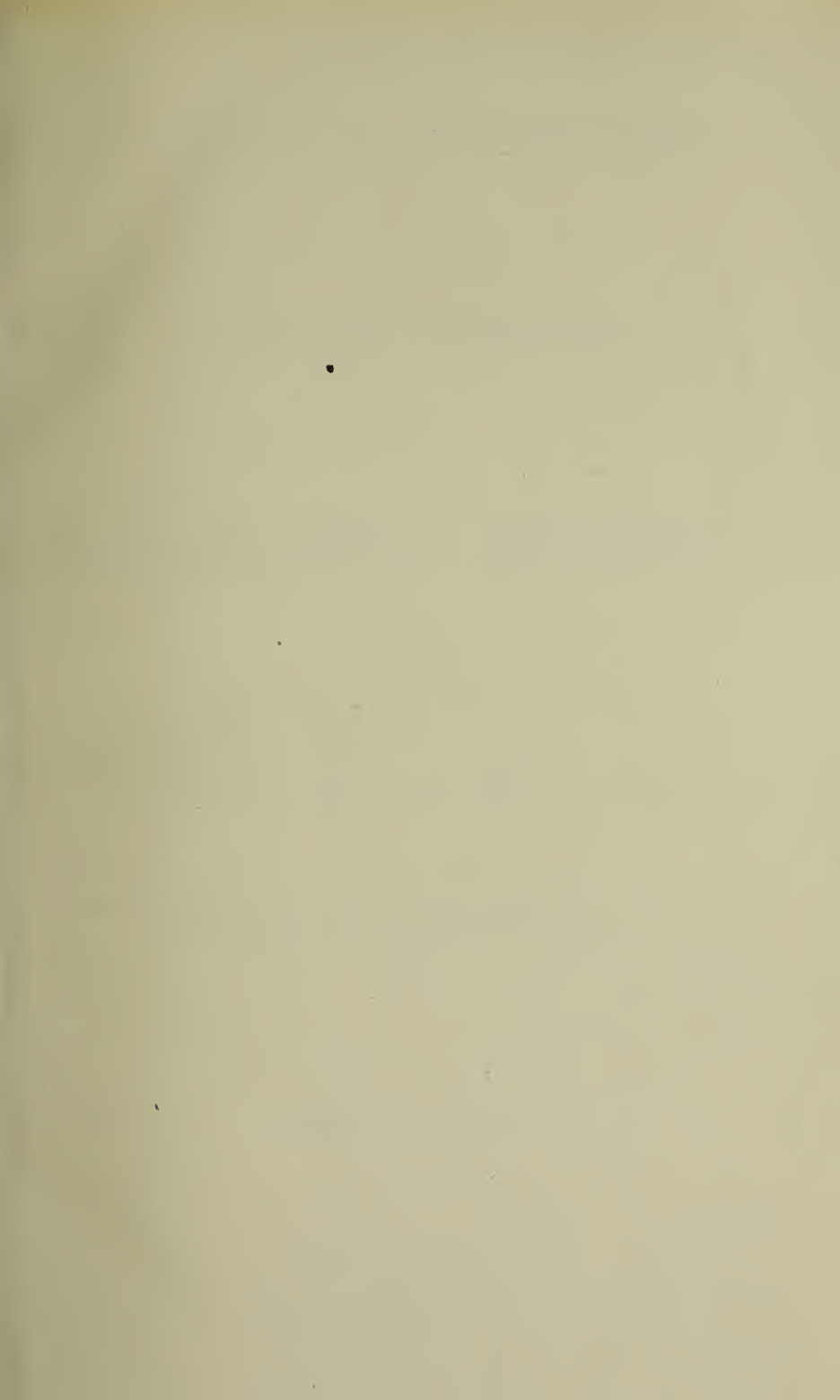


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COUNCIL JOURNAL

OF THE

TENTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF MONTANA,

BEGUN AT HELENA, THE CAPITAL OF SAID TERRITORY, ON THE EIGHTH
DAY OF JANUARY, A. D. 1877, AND CONCLUDED ON THE
SIXTEENTH DAY OF FEBRUARY, A. D. 1877,

PUBLISHED BY AUTHORITY.

DAILY AND WEEKLY HERALD,
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1877.

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TENTH LEGISLATIVE ASSEMBLY
OF THE
TERRITORY OF MONTANA.

COUNCIL JOURNAL.

FIRST DAY.

COUNCIL CHAMBER, }
HELENA, January 8th, 1877. }

Pursuant to law, the Council of the Tenth Legislative Assembly of the territory of Montana was called to order by Harry R. Comly, Chief Clerk of the Council of the Ninth Legislative Assembly, at 12 o'clock M., on Monday, the 8th day of January, A. D. 1877, at the Council Chamber, in Helena, the capital of said territory.

The following named gentlemen appeared and answered to their names:

JOHN B. ALLEBAUGH, from Madison county.

THOMAS WATSON, from Madison and Beaver Head.

ASA A. BROWN, and }
A. H. MITCHELL, } From Deer Lodge.

W. E. BASS, from Missoula.

E. B. WATERBURY, from Deer Lodge and Missoula.

W. E. CULLEN,
PHIL. CONSTANS, and } From Lewis and Clarke.
B. H. TATEM,

I. I. LEWIS, from Jefferson.

W. O. P. HAYS, from Gallatin.

P. W. McADOW, from Jefferson and Gallatin.

Absent—R. FORD, from Meagher and Chouteau.

Mr. Thomas Watson nominated A. H. Mitchell for President *pro tem*.

There being no other nomination, A. H. Mitchell was unanimously elected, and took the chair.

On motion of Mr. Asa A. Brown, Harry R. Comly was elected Chief Clerk *pro tem*.

On motion of Mr. Thomas Watson, Otis Strickland was elected Sergeant-at-Arms *pro tem*.

Mr. W. E. Cullen moved that a committee of three on credentials be appointed; which motion prevailed, and the President appointed Messrs. Cullen, McAdow, and Watson such committee.

Mr. Watson moved that the Council take a recess until 7 o'clock P. M.

Mr. McAdow moved to amend by striking out 7 o'clock P. M., and inserting 10 o'clock A. M. to-morrow; which amendment was accepted, and the Council adjourned to January 9th, at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk*.

SECOND DAY.

COUNCIL CHAMBER, }
January 9th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President *pro tem.* in the chair.

Roll called—all present, Mr. Ford, from Chouteau and Meagher, having appeared.

Mr. Cullen reported as follows:

MR. PRESIDENT:—Your Committee on Credentials beg leave to report that they find the following named gentlemen entitled to seats in the Tenth Legislative Council, from the respective districts, viz:

From Madison County—JOHN B. ALLEBAUGH.

From Madison and Beaver Head Counties—THOMAS WATSON.

From Deer Lodge County—ASA A. BROWN, ARMISTEAD H. MITCHELL.

From Deer Lodge and Missoula Counties—EDWIN B. WATERBURY.

From Missoula County—W. E. BASS.

From Lewis and Clarke County—PHILIP CONSTANS, BENJ. H. TATEM, W. E. CULLEN.

From Jefferson County—I. I. LEWIS.

From Gallatin County—W. O. P. HAYS.

From Gallatin and Jefferson Counties—P. W. MCADOW.

From Meagher and Chouteau Counties—ROBT. FORD.

All of which is respectfully submitted.

W. E. CULLEN, *Chairman.*

On motion of Mr. Waterbury, the report was received and adopted.

Mr. Brown moved that a committee of three be appointed to wait upon and request the proper officer to swear in the members.

Mr. Watson moved to amend that the Chief Justice be waited upon, and be requested to administer the oath at 2 o'clock P. M.; which motion prevailed, and Messrs. Brown, Allebaugh, and Cullen were appointed such committee.

Mr. Cullen moved that the Council take a recess until 2 o'clock P. M.; which motion prevailed, and the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed.

Roll called—all present.

Mr. Brown reported that the committee appointed to wait upon the Chief Justice had performed that duty, and introduced Decius S. Wade, Chief Justice of Montana, who proceeded to administer the oath of office to the newly elected members of the Council, a copy of which oath is here recorded, with the names of the members so sworn signed thereto:

IN THE COUNCIL CHAMBER OF THE
TENTH LEGISLATIVE ASSEMBLY
OF THE TERRITORY OF MONTANA. }

TERRITORY OF MONTANA, }
County of Lewis and Clarke, } ss.

I do solemnly swear that I will support, protect, and defend the constitution of the United States and the organic act of the territory of Montana, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election, except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this territory, or procured it to be done by others in my behalf; that I will not

knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law.

A. H. MITCHELL,
I. I. LEWIS,
W. O. P. HAYS,
R. S. FORD,
P. W. McADOW,
E. B. WATERBURY,
THOMAS WATSON,
Members of the Council.

Subscribed and sworn to before me, this 9th day of January, A. D. 1877.

DECIUS S. WADE,
*Chief Justice of the Supreme Court
of Montana Territory.*

On motion of Mr. Brown, a vote of thanks was tendered lte Hon. Decius S. Wade for his courtesy in administering the oath of office.

Mr. McAdow moved that the Council proceed to elect the subordinate officers by ballot.

Mr. Waterbury moved to amend by proceeding to elect a President first; which amendment was lost, and the original motion was adopted.

Nominations for Chief Clerk being in order, Mr. Brown nominated Harry R. Comly; Mr. Cullen nominated Francis R. Bill.

Mr. President appointed Messrs. Constans and Allebaugh as tellers, and the Council proceeded to ballot.

Harry R. Comly received eleven votes; Francis R. Bill received two votes.

Whereupon the President declared Harry R. Comly duly elected Chief Clerk.

Nominations being in order for Assistant Clerk, Mr. Brown nominated G. Edward Watson; Mr. McAdow nominated Horace C. Lewis.

The Council then proceeded to ballot.

G. Edward Watson received six votes; Horace C. Lewis received seven votes.

Whereupon the President declared Horace C. Lewis duly elected Assistant Clerk.

Nominations being in order for Enrolling Clerk, Mr. Ford nominated David Marks; Mr. Tatem nominated Geo. D. C. Hibbs.

Mr. Tatem called for the reading of a resolution adopted in caucus during the morning.

The doors were closed, the lobby cleared, and the resolution was read.

The doors were re-opened, and the Council proceeded to ballot.

David Marks received seven votes; Geo. D. C. Hibbs received six votes.

The President declared David Marks duly elected Enrolling Clerk.

Nominations being in order for Engrossing Clerk, Mr. Hays nominated Henry C. Wilkinson; Mr. Tatem nominated Geo. D. C. Hibbs.

The Council then proceeded to ballot.

Henry C. Wilkinson received seven votes; Geo. D. C. Hibbs received six votes.

Whereupon Mr. President declared Henry C. Wilkinson duly elected Engrossing Clerk.

Nominations for Sergeant-at-Arms being in order, Mr. Cullen nominated Otis Strickland; Mr. McAdow nominated Thomas E. Pounds.

The Council then proceeded to ballot.

Otis Strickland received nine votes; Thomas E. Pounds received four votes.

Whereupon the President declared Otis Strickland duly elected Sergeant-at-Arms.

Nominations for Doorkeeper being in order, Mr. Hays nominated C. D. Sullivan; Mr. Bass nominated Thomas Daly; Mr. Constans nominated D. C. Sheehy.

Mr. Sullivan received five votes; Mr. Daly received six votes; and Mr. Sheehy received two votes.

On motion of Mr. Tatem, the person receiving the lowest vote was dropped.

There being no election, the Council proceeded to a second ballot.

Mr. Sullivan received six votes; Mr. Daly received seven votes.

Whereupon the President declared Thomas Daly duly elected Doorkeeper.

Nominations being in order for Messenger, Mr. McAdow nominated Master Luddie Davis; Mr. Tatem nominated Master A. J. Williams.

The Council then proceeded to ballot.

Master Luddie Davis received nine votes; Master A. J. Williams received four votes.

Whereupon the President declared Master Luddie Davis duly elected Messenger.

Nominations being in order for Watchman, Mr. Brown nominated John McClarnon; Mr. Hays nominated William F. Bullard; Mr. Allebaugh nominated Hampden Johnson; Mr. McAdow nominated Finley McMaster; Mr. Cullen nominated T. S. Marshall; Mr. Tatem nominated Charles Rennert; Mr. Constans nominated P. Peyser.

The Council proceeded to ballot, with the following result:

McClarnon, 6; Bullard, 1; Johnson, 1; McMaster, 3; Peyser, 2.

There being no choice, on motion of Mr. Tatem, the vote was confined to the highest two; and the Council proceeded to a second ballot.

McClarnon received eight votes; McMaster received five votes.

The President then declared John McClarnon duly elected Watchman.

On motion of Mr. Waterbury, the Council adjourned until tomorrow at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

THIRD DAY.

COUNCIL CHAMBER, }
January 10th, 1877. }

The Council met pursuant to adjournment.

Roll called—all present.

On motion of Mr. Brown, the attaches elect of the Council were directed to proceed to the Governor's office for the purpose of receiving the oath of office.

Mr. Cullen moved to take a recess for half an hour; which motion prevailed, and the Council took a recess.

Council resumed.

Roll called—all present.

The Chief Clerk reported to the President, and he announced to the Council, that the attaches had been sworn in by the Governor. The following oath of office having been administered to the officers whose name are thereunto signed, to-wit:

IN THE COUNCIL CHAMBER OF THE
TENTH LEGISLATIVE ASSEMBLY
OF THE TERRITORY OF MONTANA. }

TERRITORY OF MONTANA,
County of Lewis and Clarke, { ss.

I do solemnly swear that I will support, protect, and defend the constitution of the United States and the organic act of the territory of Montana; and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election, except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this territory, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law.

HARRY R. COMLY, *Chief Clerk of the Council.*

HORACE C. LEWIS, *Asst. Clerk of the Council.*

DAVID MARKS, *Enrolling Clerk of the Council.*

HENRY C. WILKINSON, *Engrossing Clerk of the Council.*

OTIS STRICKLAND, *Sergeant-at-Arms of the Council.*

THOMAS DALY, *Doorkeeper of the Council.*

JOHN MCCLARNON, *Watchman of the Council.*

LUDDIE DAVIS, *Messenger of the Council.*

Subscribed and sworn to before me, this 10th day of January,
A. D. 1877.

[SEAL OF MONTANA.]

B. F. POTTS, *Governor.*

The minutes of the first and second days of the session were read and approved.

On motion of Mr. Brown, it was ordered that the chair appoint a committee of three to wait upon the several clergymen of Helena, and request their services as Chaplain.

On motion of Mr. Bass, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed.

Roll called—absent, Mr. Ford.

Mr. Brown moved that the rules of the Council of the ninth session be adopted temporarily, for the government of the Council, until permanent rules are adopted; which motion prevailed.

On motion of Mr. McAdow, a committee of three, consisting of Messrs. McAdow, Brown, and Allebaugh, was appointed by the President to report rules for the government of the Council, when permanently organized.

On motion of Mr. Hays, the Council adjourned until to-morrow at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

FOURTH DAY.

COUNCIL CHAMBER, }
January 11th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.

Roll called—all present.

Minutes of yesterday read and approved.

Mr. Brown offered the following resolution; which, on his motion, was adopted:

Resolved, That the reporters of the press of Montana be assigned seats upon the floor of the Council Chamber, for the purpose of reporting its proceedings.

Mr. Cullen moved to take a recess until 3:30 P. M.; which motion prevailed, and the Council took a recess until 3:30 P. M.

3:30 o'clock P. M.—Council resumed.

Roll called—absent, Mr. Tatem.

Mr. Brown moved to adjourn; which motion was lost.

Mr. Waterbury moved to take a recess until 7 o'clock P. M.; which motion was carried, and the Council adjourned until 7 o'clock P. M.

7 o'clock P. M.—Council resumed.

Roll called—absent, Mr. Constans.

On motion of Mr. Hays, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk.*

FIFTH DAY.

COUNCIL CHAMBER, }
January 12th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President *pro tem.* in the chair.

Roll called.

Minutes of yesterday read and approved.

The following communication was received, and, on motion of Mr. Waterbury, was ordered spread upon the minutes:

PASTOR'S STUDY, GRAND STREET CHURCH, }
 HELENA, January 11th, 1877. }

Harry R. Comly, Esq., Chief Clerk Legislative Council of Montana:

DEAR SIR:—It will afford me much pleasure to comply with the request of the Council conveyed in your note of this date, to open with religious services their meetings at 10 o'clock A. M., on the Wednesdays and Saturdays of each week of its present session.

Very truly,

DAVID MORTON.

Mr. Hays moved that we proceed to ballot for President without nominations; which motion was lost.

Mr. Asa A. Brown was called to and assumed the chair.

Nominations for President being in order, Mr. Allebaugh nominated A. H. Mitchell; Mr. Ford nominated Thomas Watson; Mr. Lewis nominated W. E. Cullen; Mr. Tatem nominated John B. Allebaugh; Mr. Hays nominated P. W. McAdow.

On motion of Mr. Hays, the Council proceeded to ballot.

On motion of Mr. Constans, Messrs. Ford and Allebaugh were appointed tellers.

The following communication was received from the House:

Mr. President and Gentlemen of the Council:

We are appointed a committee to wait upon and inform your honorable body that the House of Representatives has organized by the election of the following officers:

Speaker—HON. A. E. MAYHEW;

Chief Clerk—A. H. BARRET;

Assistant Clerk—HARRY A. LAMBERT;

Enrolling Clerk—ALBERT J. MCKIERNAN;

Engrossing Clerk—CLARENCE O. EWING;

Sergeant-at-Arms—STEPHEN BYNUM;

Doorkeeper—DAN. FARRY;

Messenger—BENJAMIN ROBERTS;

Watchman—HARRY McVEIGH;

And is now ready to proceed to business.

R. O. HICKMAN,

J. G. SANDERS,

F. C. IVES,

Committee of the House of Representatives.

On motion of Mr. Hays, the Council proceeded to ballot for President.

First Ballot—Mitchell, 6; Watson, 3; Cullen, 2; Allebaugh, 1; McAdow, 1. No election.

Second Ballot—Mitchell, 4; Watson, 3; Cullen, 2; Allebaugh, 1; McAdow, 3. No election.

Third Ballot—Mitchell, 4; Watson, 2; Cullen, 1; Allebaugh, 2; McAdow, 4. No election.

Fourth Ballot—Mitchell, 4; Watson, 2; Cullen, 3; Allebaugh, 1; McAdow, 3. No election.

Fifth Ballot—Mitchell, 3; Watson, 2; Cullen, 3; Allebaugh, 1; McAdow, 4. No election.

Sixth Ballot—Mitchell, 5; Watson, 2; Cullen, 1; Allebaugh, 1; McAdow, 4. No election.

On motion of Mr. Watson, the Council took a recess for fifteen minutes.

Council resumed—Mr. Brown in the chair.

Seventh Ballot—Mitchell, 4; Watson, 2; Cullen, 1; Allebaugh, 1; McAdow, 5. No election.

Eighth Ballot—Mitchell, 4; Watson, 3; Cullen, 1; Allebaugh, 1; McAdow, 4. No election.

Ninth Ballot—Mitchell, 4; Watson, 2; Cullen, 1; Allebaugh, 2; McAdow, 4. No election.

Tenth Ballot—Mitchell, 4; Watson, 2; Cullen, 1; Allebaugh, 1; McAdow, 3; Waterbury, 1; blank, 1. No election.

Eleventh Ballot—Mitchell, 4; Cullen, 1; Allebaugh, 1; McAdow, 4; Waterbury, 2; Bass, 1. No election.

Twelfth Ballot—Mitchell, 4; Cullen, 2; Allebaugh, 1; McAdow, 4; Waterbury, 1; Brown, 1. No election.

Thirteenth Ballot—Mitchell, 3; Watson, 2; Cullen, 1; Allebaugh, 1; McAdow, 3; Brown, 1; Hays, 1; Tatem, 1. No election.

Fourteenth Ballot—Mitchell, 4; Watson, 1; Cullen, 1; Allebaugh, 1; McAdow, 4; Hays, 1; Ford, 1. No election.

Fifteenth Ballot—Watson, 1; McAdow, 5; Mitchell, 4; Lewis, 1; Cullen, 1; Allebaugh, 1. No election.

Sixteenth Ballot—McAdow, 4; Mitchell, 4; Cullen, 3; Allebaugh, 1; Constans, 1. No election.

Seventeenth Ballot—Watson, 1; McAdow, 5; Mitchell, 4; Cullen, 1; Allebaugh, 1; Bass, 1. No election.

Eighteenth Ballot—Watson, 2; McAdow, 5; Mitchell, 3; Cullen, 2; Allebaugh, 1. No election.

Nineteenth Ballot—Watson, 2; Mitchell, 4; McAdow, 5; Allebaugh, 1; Cullen, 1. No election.

Twentieth Ballot—Watson, 2; Mitchell, 4; McAdow, 4; Allebaugh, 1; Cullen, 1; Constans, 1. No election.

During the balloting the following communication was received:

HELENA, M. T.

To Harry R. Comly, Chief Clerk of the Council, etc.:

DEAR SIR:—Yours received; will act for the Council as Chaplain, as requested.

Yours, etc.,

E. L. TOY.

On motion of Mr. Tatem, Rev. E. L. Toy's services were accepted, and a vote of thanks tendered for his courtesy in complying with the request of the Council.

The following communication, and accompanying concurrent resolution, was received from the House:

HOUSE OF REPRESENTATIVES, }
January 12th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that H. C. R. No. 1 has passed the House, and is herewith transmitted.

Messrs. W. F. Sanders, W. J. McCormick, and R. P. Vivion were appointed on the part of the House in compliance with said resolution.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. C. R. No. 1:

Resolved (the Council concurring), That a committee of five, consisting of two members of the Council and three members of the House, be appointed on joint rules for the government of the two Houses of the Legislative Assembly at the present session.

On motion of Mr. Mitchell, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President *pro tem.* in the chair.

Roll called—all present.

Mr. Brown was called to the chair.

The following communication was received:

HELENA, MONTANA, Jan. 12th, 1877.

Harry R. Comly, Esq.:

DEAR SIR:—I am obliged for the compliment the honorable members of the Council have paid me, requesting me to open the

Council, as Chaplain, on Tuesday and Friday of each week during the session, and it is with regret that I beg to be allowed to decline the invitation, having many and pressing duties which occupy my whole time.

Sincerely and regretfully yours,

LAWRENCE PALLADINE, S. J.

Mr. Tatem moved that after the next ballot the name receiving the lowest number of votes shall be dropped; which motion was lost.

The Council then proceeded with the

Twenty-first Ballot—Mitchell, 5; McAdow, 3; Watson, 3; Bass, 2. No election.

Twenty-second Ballot—Mitchell, 5; McAdow, 3; Watson, 3; Bass, 2. No election.

Twenty-third Ballot—Mitchell, 4; McAdow, 2; Watson, 3; Bass, 3; Lewis, 1.

Twenty-fourth Ballot—Mitchell, 5; McAdow, 2; Watson, 2; Bass, 4. No election.

Twenty-fifth Ballot—Mitchell, 4; Watson, 2; McAdow, 2; Bass, 5. No election.

Twenty-sixth Ballot—Mitchell, 4; Watson, 2; Bass, 5; Waterbury, 1; Allebaugh, 1. No election.

Twenty-seventh Ballot—Mitchell, 5; Watson, 2; Bass, 5; Allebaugh, 1. No election.

Twenty-eighth Ballot—Mitchell, 4; Watson, 2; McAdow, 1; Bass, 5; Allebaugh, 1. No election.

Twenty-ninth Ballot—Mitchell, 4; Watson, 2; Bass, 5; Brown, 1; Allebaugh, 1. No election.

Thirtieth Ballot—Mitchell, 5; Watson, 2; Bass, 5; Brown, 1. No election.

Mr. McAdow moved to adjourn; which motion was lost.

Thirty-first Ballot—Mitchell, 4; Watson, 2; Bass, 5; Brown, 1; Allebaugh, 1. No election.

Thirty-second Ballot—Mitchell, 4; Watson, 3; Bass, 5; Constans, 1. No election.

Thirty-third Ballot—Mitchell, 4; Bass, 5; Hays, 1; Watson, 2; Constans, 1. No election.

Thirty-fourth Ballot—Mitchell, 5; Bass, 1; Watson, 1; Lewis, 6. No election.

Mr. Waterbury moved that the Council take a recess for fifteen minutes.

Mr. Tatem moved to amend by directing the Doorkeeper to allow none but members and officers within the bar during recess; which amendment was carried.

And the Council took a recess for fifteen minutes.

Council resumed—quorum present.

Thirty-fifth Ballot—Mitchell, 5; Bass, 1; Watson, 2; Lewis, 5. No election.

Thirty-sixth Ballot—Mitchell, 5; Bass, 1; Watson, 2; Lewis, 5. No election.

Thirty-seventh Ballot—Mitchell, 4; Lewis, 6; Watson, 3. No election.

Thirty-eighth Ballot—Mitchell, 4; Lewis, 4; Watson, 3; Brown, 1; Bass, 1. No election.

Mr. Mitchell moved to adjourn; which motion was lost.

Thirty-ninth Ballot—Mitchell, 5; Lewis, 5; Watson, 2; Bass, 1. No election.

Mr. Allebaugh moved to adjourn; which motion was lost.

Fortieth Ballot—Mitchell, 4; Lewis, 6; Watson, 2; Bass, 1.
No election.

Forty-first Ballot—Mitchell, 5; Lewis, 5; Watson, 2; Bass, 1.
No election.

Forty-second Ballot—Mitchell, 4; Lewis, 6; Watson, 3. No election.

Forty-third Ballot—Mitchell, 5; Lewis, 6; Watson, 2. No election.

Mr. Mitchell moved to adjourn until 10 o'clock to-morrow; which motion was lost.

Forty-fourth Ballot—Mitchell, 4; Lewis, 5; Watson, 3; Allebaugh, 1. No election.

Forty-fifth Ballot—Mitchell, 3; Lewis, 5; Watson, 4; Waterbury, 1. No election.

Forty-sixth Ballot—Mitchell, 5; Lewis, 5; Watson, 2; Waterbury, 1. No election.

Forty-seventh Ballot—Mitchell, 4; Lewis, 5; Watson, 4. No election.

Forty-eighth Ballot—Mitchell, 4; Lewis, 5; Watson, 3; Waterbury, 1. No election.

Forty-ninth Ballot—Mitchell, 3; Lewis, 6; Watson, 4. No election.

Fiftieth Ballot—Mitchell, 3; Lewis, 4; Watson, 5; Allebaugh, 1. No election.

Fifty-first Ballot—Mitchell, 5; Lewis, 6; Watson, 1; Bass, 1.
No election.

Fifty-second Ballot—Mitchell, 4; Lewis, 5; Watson, 3; McAdow, 1. No election.

Fifty-third Ballot—Mitchell, 4; Lewis, 5; Watson, 3; Hays, 1. No election.

Fifty-fourth Ballot—Mitchell, 4; Lewis, 5; Watson, 4. No election.

Fifty-fifth Ballot—Mitchell, 3; Lewis, 5; Watson, 5. No election.

Mr. McAdow moved to adjourn; which motion was lost.

Fifty-sixth Ballot—Mitchell, 4; Lewis, 5; Watson, 4. No election.

Fifty-seventh Ballot—Mitchell, 3; Lewis, 5; Watson, 3; Hays, 1; Allebaugh, 1. No election.

Fifty-eighth Ballot—Mitchell, 3; Lewis, 6; Watson, 2; Hays, 1; scattering, 1. No election.

Fifty-ninth Ballot—Mitchell, 5; Lewis, 5; Watson, 3. No election.

Sixtieth Ballot—Mitchell, 3; Lewis, 5; Watson, 5. No election.

Mr. Allebaugh moved to take a recess for fifteen minutes.

Mr. Mitchell moved to amend by adjourning to 10 o'clock A. M. to-morrow; amendment lost, and motion prevailed.

Council resumed.

Sixty-first Ballot—Mitchell, 3; Lewis, 5; Watson, 4; McAdow, 1. No election.

Sixty-second Ballot—Mitchell, 3; Lewis, 6; Watson, 3; Bass, 1. No election.

Sixty-third Ballot—Mitchell, 3; Lewis, 6; Watson, 3; Bass, 1.
No election.

On motion of Mr. Cullen, the Council took a recess for five minutes.

Council resumed.

Sixty-fourth Ballot—Mitchell, 3; Lewis, 6; Watson, 3; Bass, 1.
No election.

On motion of Mr. Mitchell, the Council adjourned until 10 o'clock A. M., to-morrow.

HARRY R. COMLY, *Chief Clerk*.

SIXTH DAY.

COUNCIL CHAMBER, }
January 13th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President *pro tem.* in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Minutes of yesterday read, corrected, and approved.

Mr. Brown was called to the chair.

Mr. Mitchell withdrew his name as a candidate for President.

Mr. Watson withdrew his name as a candidate for President.

Mr. Mitchell nominated W. E. Bass, of Missoula county, for President.

On motion of Mr. Bass, Messrs. Cullen and Tatem were appointed tellers, and the Council proceeded to ballot.

Sixty-fifth Ballot—Bass, 6; Lewis, 6; Waterbury, 1. No election.

Sixty-sixth Ballot—Bass, 6; Lewis, 5; blank, 1; Brown, 1. No election.

Sixty-seventh Ballot—Bass, 6; Lewis, 5; blank, 2. No election.

Sixty-eighth Ballot—Bass, 7; Lewis, 6.

Mr. Bass having received a majority of all the votes cast, was declared by the President *pro tem.* duly elected permanent President of the Council.

On motion of Mr. Tatem, the election was made unanimous.

On motion of Mr. Watson, Mr. Mitchell was granted leave of absence until Tuesday, the 16th inst.

On motion of Mr. Cullen, a committee, consisting of Messrs. Mitchell and Cullen, was appointed to conduct Mr. Bass to the chair.

Mr. Bass was then conducted to the chair and accepted the position, returning thanks for the compliment, and called the Council to order.

On motion of Mr. Tatem, a committee of three, consisting of Messrs. Tatem, Watson, and Cullen, were appointed and instructed to inform the House that the Council is organized and ready to proceed to business.

On motion of Mr. McAdow, the Council concurred in H. C. R. No. 1, relating to joint committee on rules, and the President appointed Messrs. Watson and Tatem such committee on the part of the Council.

Mr. Brown moved that a committee of two be appointed to inform the Governor that the Council is organized and ready to receive

any communication that His Excellency may be pleased to make; which motion prevailed, and Messrs. Brown and Tatem were appointed such committee.

Mr. McAdow reported as follows:

MR. PRESIDENT:—Your special committee selected for the purpose of examining the rules of the Ninth Legislature of Montana, would respectfully recommend their adoption for the government of the present Council.

P. W. McADOW, *Chairman*.

On motion of Mr. Brown, the report was adopted, and the committee discharged.

Mr. McAdow moved that the Secretary of the territory be requested to furnish the Council with a sufficient number of cards containing the order of business; which motion prevailed.

On motion of Mr. McAdow, the Council took a recess for fifteen minutes.

Council resumed.

Roll called—quorum present.

Mr. President in the chair.

Mr. Tatem, from the committee appointed to inform the House that the Council is organized and ready to proceed to business, reported that the duty had been performed.

On motion of Mr. Waterbury, the report was received, and the committee discharged.

Mr. Brown reported as follows:

MR. PRESIDENT:—Your special committee appointed to wait upon the Governor and inform him that the Council is organized and ready to receive any communications he might be pleased to make, has performed that duty, and asks to be discharged.

BROWN, *Chairman*.

On motion of Mr. Brown, the report was received, and the committee discharged.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES, }
January 13th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform the Council that the House has appointed Messrs. McCormick, Sanders (of Jefferson), and Brainard, to act with a like committee on the part of the Council, to inform the Governor that the two Houses have organized permanently and are ready to receive any communication he may be pleased to make.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. McAdow, a committee of three, consisting of Messrs. Cullen, Allebaugh, and Brown, was appointed to act in conjunction with the committee from the House, for the purpose mentioned in the last communication from the House.

Mr. Tatem moved to expunge from the minutes all of the proceedings of the Council relative to the appointment of a separate committee of the Council to inform the Governor of its organization; which motion was lost.

Mr. Cullen, from the joint committee to wait upon the Governor, reported that the committee had performed that duty, and that the Governor informed them he would communicate with both Houses in a few minutes.

On motion of Mr. Lewis, the report was received and the committee discharged.

The following communication was received:

MONTANA TERRITORY, }
EXECUTIVE DEPARTMENT, }
HELENA, January 8th, 1877. }

To the Legislative Assembly:

Ben. R. Dittes, Esq., of Lewis and Clarke county, is appointed private secretary to the Governor. He will be respected accordingly.

Respectfully,

B. F. POTTS.

Also, the following message of the Governor, through his private secretary, Mr. Ben. R. Dittes :

MESSAGE OF THE GOVERNOR OF MONTANA.

Fellow Citizens of the Council and House of Representatives:

The year that has just closed brought the people of the territory a reasonable degree of prosperity. Industry in every calling of life has pursued its legitimate objects with varied success. Education, which is the first concern of an intelligent and prosperous people, has steadily advanced, preparing the youth of the territory for the duties and responsibilities of citizenship. The ravages of the "insect" diminished the yield of the harvest, but the labor of the husbandman has been crowned with plenty. Neither pestilence nor famine has entered our borders, and almost unbroken health has blessed our homes. For these and kindred blessings we should not be unmindful of their author, but render to Him the sincere thanks of grateful hearts.

The following statement from the reports of the Territorial Auditor and Treasurer, for the fiscal year ending December 31st, 1876, is submitted for your information :

ABSTRACT OF THE ASSESSMENT OF PROPERTY, BY COUNTIES, 1876.

Lewis and Clarke County,	.	.	.	.	.	\$ 2,583,403 00
Deer Lodge County,	.	.	.	.	.	1,815,600 00
Madison County,	.	.	.	.	.	1,655,935 00
Gallatin County,	.	.	.	.	.	979,000 00
Jefferson County,	.	.	.	.	.	582,004 55
Beaver Head County,	.	.	.	.	.	644,780 00
Meagher County,	.	.	.	.	.	657,598 00
Missoula County,	.	.	.	.	.	567,808 00
Chouteau County,	.	.	.	.	.	453,412 00
Total,	.	.	.	.	.	\$ 9,939,540 55
Total amount of assessment in 1875,	.	.	.	.	.	\$10,062,904 17
Decrease in 1876,	.	.	.	.	.	123,363 62
Total amount of territorial warrants issued in 1876,	.	.	.	.	.	27,821 35

The total amount of revenue received by the Territorial Treasurer for the fiscal year ending December 31st, A. D. 1876:

From Lewis and Clarke County,	\$15,017 00
From Deer Lodge County,	9,856 43
From Madison County,	7,228 99
From Gallatin County,	3,992 84
From Jefferson County,	2,536 03
From Beaver Head County,	2,371 99
From Meagher County,	2,877 96
From Missoula County,	2,176 05
From Chouteau County,	2,052 17

Total revenue received from County Treasurers,	\$48,109 46
Received from labor of convicts,	583 00
From all other sources,	1,896 62
Total revenue from all sources,	<u>\$50,589 08</u>

LIABILITIES OF THE TERRITORY, DECEMBER 31, 1876.

To ten per cent bonds,	\$91,200 00
To interest on same to date,	4,560 00
To warrants outstanding December 31st, 1876,	35,607 99
To interest on same,	2,659 97
To estates of deceased persons,	430 77
To one 12 per cent bond and interest,	101 30
	<u>\$134,560 03</u>

ASSETS OF THE TERRITORY.

By balance in warrant fund,	\$ 1,139 94
By balance in forty per cent fund,	6,445 81
By balance in sinking fund,	9,100 00
By balance due from ex-Treas. Edwards, Missoula Co.,	290 09
	<u>\$ 16,975 84</u>
By registered indebtedness proper,	\$117,584 19
Decrease of territorial debt for 1876,	8,100 87

Number and value of live stock in the territory, as returned by the assessors for 1876 :

	<i>Number.</i>	<i>Value.</i>
Cattle,	160,647	\$1,812,920
Horses,	26,496	851,674
Mules,	1,688	105,648
Sheep,	51,558	148,894
Hogs,	4,642	20,598
Total,		<u>\$2,939,734</u>

The total indebtedness of the several counties on the first day of March, A. D. 1876, was as follows :

Lewis and Clarke County,	\$136,747 54
Missoula County,	92,136 39
Gallatin County,	51,407 38
Deer Lodge County,	51,619 07
Madison County,	60,460 61
Jefferson County,	55,293 41
Meagher County,	34,419 24
Beaver Head County,	4,267 88
Chouteau County,	4,967 24
Total,	<u>\$491,318 76</u>

For the year ending March 1st, 1876, the debt of the following named counties increased:

Lewis and Clarke County,	\$15,679 55
Madison County,	28,974 57
Missoula County,	4,150 58
Jefferson County,	3,324 73
Chouteau County,	1,383 08
Total increase,	<u>\$53,512 51</u>

The following counties decreased their indebtedness for the year ending March 1st, 1876:

Gallatin County,	\$5,203 71
Deer Lodge County,	4,533 37
Meagher County,	1,648 74
Beaver Head County,	1,557 12
Total decrease,	<u>\$12,942 94</u>

Showing a net increase of county indebtedness for the year ending March 1st, 1876, of \$40,569 57

The indebtedness of the several counties increased during the year ending March 1st, 1876, \$40,569.57, and the total indebtedness of the several counties has reached the alarming sum of \$491,318.76.

It has always been within the power of the legislature to prevent this increase, but it has allowed it to continue from year to year since the organization of the territory. The attention of your predecessors has been repeatedly called to this subject, but they refused to provide a remedy. The power of the several counties to contract debts beyond their annual revenues, should be prohibited by law. Our local governments, no more than private individuals,

can live beyond their means without fraud and swindling; somebody must pay the bills. The chief and growing evil of the present day is local indebtedness, and the disposition of the people to live beyond their means, ambitious to seem, rather than to be; who never blush to contract a debt with no capacity to pay; who live on counterfeit rank, borrowed tinsel and splendor, won by false pretenses. One of the early fathers wisely said: "I have found the philosopher's stone, '*Pay as you go,*'" and the wisest of the many things uttered by the late Mr. Greeley, was: "*Avoid pecuniary obligations as you would a pestilence; hunger, cold, rags, hard work, or contempt are disagreeable, but debt is infinitely worse than all.*" The spirit that underlies and pervades the whole decalogue was summed up in the utterance of Paul: "Owe no man anything." A disregard of this injunction is the bitter spring from which flow nearly all our public and domestic calamities. We should welcome the return of the day when the people will prefer honest poverty to the gilded shams of fashionable prodigality; when the plain, honest, republican simplicity of the early fathers will supplant the extravagance and gaudy show of to-day; when men shall be proud to eat no bread save that earned by the sweat of honest toil; when the people will live within their income, and compel their local governments to do likewise.

The rapid increase of county indebtedness, and the decline of county credits, should demand the exercise of the strictest economy on the part of county officers. Some of the counties now stand on the very threshold of bankruptcy, and others are rapidly approaching it. Unless an immediate remedy is provided, it will be beyond the power of the legislature to afford them any assistance. If county affairs continue to be conducted as heretofore, the time cannot be far distant when some of the counties must surrender their organizations for the want of revenue or credit to defray current expenses. Soon the warrants of some of the counties will be so low in the market that no citizen can afford to discharge the duties of a county officer and receive warrants as a compensation. I regret that the legislative power of the territory has not long since been invoked to arrest the steady increase of county indebtedness, but, in my judgment, the time has arrived when the responsibility must be met and discharged, and I trust all other legisla-

tion will be deferred until you provide for the early removal of the burden of county indebtedness, that hangs like a millstone about the necks of the people. The remedy is plain: **REDUCTION OF EXPENSES, AND INCREASE OF REVENUES.** This can be accomplished by consolidating county offices, as heretofore recommended, and reducing fees and salaries. The revenues can be largely increased by placing all classes of property on the tax list, removing all exemptions, except public property; by imposing a special tax of twenty-five cents on every gallon of spirituous liquors consumed in the territory, and increasing the license-tax of dealers in spirituous and malt liquors and tobacco.

In my third biennial message, I held the following language on the subject: "No tax is less burdensome on our industrial interests, "or is paid with less complaint, or is less felt by all classes, than a "tax on spirituous liquors. The consumption of spirituous liquors "does more to create debt and the necessity for a high rate of "taxes, than is realized from the ordinary taxation of such property. "It fills our prisons, our asylums and infirmaries, and greatly "increases the expenses of our courts of justice. Shall it not be "taxed to meet the expenses it compels society to incur? Shall it "not be compelled to share the burden that it imposes on the prop- "erty and labor of the people?"

It would be both economical and just to re-enact the statute providing for the payment of jurors and witnesses, approved November 20, 1867, which required that the court should tax a jury fee to the unsuccessful party in each civil action tried by a jury. I again recommend that the number of peremptory challenges of jurors, both in civil and criminal cases, be reduced, and that the eleventh clause of challenge to a juror in criminal causes be amended. The cost of jury trials will be greatly reduced, and the interests of litigants will not be prejudiced thereby.

The present situation of affairs impresses me with the belief that no legislative body will ever have so favorable an opportunity to inaugurate true reform in local affairs, as the one I now address. All true reform begins at home, and we should put our own houses in order before we go abroad to reform the affairs of others.

Your predecessors adjourned without any provision for the care, maintenance, and treatment of the insane. My recommendations

contained in my third biennial message upon the subject are again renewed. The present situation of the insane should enlist the warmest sympathies of every feeling heart, and irresistably invoke the benevolence of the territory. I most earnestly hope that this Legislative Assembly will fully discharge the obligations of the people to these children of sorrow. The duty of fulfilling these obligations is clear, and the benefits of its performance evident. The social condition of our people cannot be what it should be, while a class of guiltless and helpless victims of physical or mental disorder remains unrelieved. Nor is the duty of relieving the dependent infirm less imperatively dictated by considerations of economy than by considerations of human philanthropy. The unfortunates must be sustained by society in some way. Shall it be by chaining them to the floors of their gloomy cells, or shall they have the kindest and most humane care, and the best and most experienced medical treatment that money can obtain?

The responsibility of a correct decision rests with you. It is the opinion of medical men of experience in the treatment of insanity, that a very large proportion of insane persons are curable, if skillful treatment is afforded them at an early stage of the disease. It cannot be claimed that this unfortunate class in our midst has received any treatment heretofore, hence we have a large number that are now probably incurable, and will remain a public charge for life. I confidently hope that the condition of this unfortunate class of our people will receive your immediate attention.

The election law should be so amended as to require the county commissioners to so constitute the boards of elections that minorities, as well as majorities, shall have a fair representation in them. The justice of this suggestion has in many cases secured representation to minorities, but I think the law should require the county commissioners to give a fair representation to minorities on election boards. Every safeguard that will protect the ballot box from fraud or violence should be adopted; for when the ballot box is corrupted, free institutions are at an end. Every good citizen should unite in enacting and enforcing such laws as will secure the purity of the ballot box.

The term of office of one of the county commissioners in each county will expire next December, and as no election will be held

to fill the vacancies, your attention is invited to the necessity of some legislation upon the subject.

The act to prohibit the traffic in intoxicating liquors on general election days, approved Feb. 8th, 1876, secured peace and good order at every polling place throughout the territory at the late election. The law is in accord with public sentiment, and will be rigidly enforced by the people.

The act to prevent the purchase and sale of votes, approved Feb. 11, 1876, is sustained by the public sentiment of the people, and its strict enforcement is assured.

A new apportionment of the territory for legislative purposes appears to be necessary to secure a fair representation to each county. The vote of the several counties at the recent election furnishes unquestioned evidence that the present apportionment is an unfair one. A spirit of fairnees will, I have no doubt, secure a new and more equitable apportionment.

I doubt the propriety of continuing in force the law for recording marks and brands, but if the legislature in its wisdom should determine otherwise, I then recommend that the duties of the recorder of marks and brands be discharged by the territorial treasurer, and that the fee now allowed by law be paid into the territorial treasury and applied to the payment of the printing of the annual report. This will secure the printing of the report without cost to the territory.

Instances have occurred where a criminal statute was repealed, and it contained no provision saving offences or pending prosecutions under it. And as no conviction, after such repeal, can be legally had under such statute, you should provide that whenever a statute is repealed or amended, such repeal or amendment shall not effect pending actions, prosecutions, or proceedings, civil or criminal, nor causes of such actions or proceedings, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing act.

You should authorize bonded officers, who are required to prosecute or defend for the territory or counties, and executors, administrators, trustees and guardians to perfect appeals from an inferior to a superior court, without being required to give an appeal bond.

The clerk of the supreme court charges and collects fees under a fee bill prescribed by the judges of said court, in the absence of legislation on that subject. The fees thus authorized are the same as allowed the clerks of the district courts, under the fee bill of 1865, and are therefore far in excess of the fees now allowed said clerks. The fixing of a fee bill for the clerk of the supreme court is as imperative upon the legislature as fixing a fee bill for the clerks of the district courts, and should receive your early attention.

The question whether any further legislation is necessary to give the people of Big Horn county a legal county organization, should the numbers of persons who may settle therein within the next two years justify it, is submitted for your consideration and action, should any action in your judgment be necessary.

The railroad legislation of the last session of the legislature was not so favorably received by the people, as was anticipated by its friends. The people refused to approve the act granting aid to the Northern Pacific Railroad Company, and as no company or corporation accepted the provisions of the act granting aid to a north and south road, it was not submitted to a vote of the people. S. B. Coulson & Co. accepted the provisions of the act to aid in the construction of the Helena and Ft. Benton railroad, and proposed to build and equip a narrow gauge railroad from Ft. Benton to Helena for the sum of \$700,000 in county bonds. The counties of Lewis and Clarke and Choteau voted at the recent election to approve the proposition, and the commissioners of said counties were authorized to issue \$430,000 in county bonds. From what source the deficiency of \$270,000 is to be raised, has not been indicated by the friends of the measure.

The financial officers of the territory have conducted its financial affairs with so much fidelity and ability, that the treasurer on the first day of July last was enabled to place on the market at par the ten per cent bonds authorized by your predecessors, redeeming all the twelve per cent bonds of 1872; making a saving of \$1,824 of annual interest on the bonded debt.

As no part of the bonded debt can be paid, except at the option of the holders, before July 1st, 1878, I recommend that the territorial treasurer be authorized to use the money in the sinking

fund, applicable to the payment of bonds, to purchase outstanding bonds at not exceeding their par value. But in case the treasurer cannot purchase any of the outstanding bonds, before the option of the holders expires, then he should be authorized to apply the money in the sinking fund, and all that may accumulate therein before January 1st, 1878, applicable to the payment of bonds, to the payment of outstanding territorial warrants. The amount now in said fund, applicable to the payment of bonds, is about \$8,000, and will probably reach \$20,000 before the close of the present fiscal year.

The military campaign conducted by Brigadier General Crook, U. S. A., against the Sioux Indians in eastern Montana, is happily approaching a successful termination. Assurances are given by high military authority that the campaign against the Indians shall not cease until they submit to the authority of the general government, and give guarantees of future peace. Peace with the Indians in eastern Montana once assured, a safe line of overland communication will be opened between central Montana and Bismarck, the western terminus of the eastern division of the N. P. Railroad. A highway from Montana to Bismarck, protected from Indian depredations by United States troops, stationed at the new military posts to be built on the Yellowstone the coming season, will enable our stock-growers to deliver their stock at the latter place of shipment to the eastern markets, at a small cost, and will, therefore, add much to the present value of every head of stock in the territory. The present outlook for the stock-growers of the territory is much more promising than at any period heretofore, upon which event they are to be heartily congratulated.

Soon after the opening of the Centennial Exhibition at Philadelphia, the United States Centennial Commission requested that a citizen of the territory be named to deliver an address on its origin, growth, and resources. I appointed W. A. Clark, Esq., of Deer Lodge county, who, on the 11th day of October last, delivered a very able and scholarly address before the exhibition. The address is certainly a very valuable one, and should be printed in pamphlet form for distribution. It is the first paper that has been prepared on the growth and resources of Montana, and its distribution would undoubtedly attract capital and immigration to the territory.

The Centennial Commission awarded Montana a diploma on the exhibit of ores, and two of our citizens, Messrs. Hauser and Kleinschmidt, received awards on private collections of ores.

An unexpended balance of \$1,561.10 of the territorial appropriation for centennial purposes has been returned to the treasury by J. P. Woolman, Esq., United States Centennial Commissioner for Montana, and his report of expenditures with accompanying vouchers will be submitted at an early day in the session.

The expenditure for keeping the territorial convicts for the last fiscal year was \$6,647.90, and the amount received from the labor of convicts was \$583 for the same period. The territory has heretofore maintained the right to control the labor of the territorial convicts, and it has been undisputed until last August, when the attorney general of the United States insisted that the new contract should contain a provision that the United States should control the labor of convicts, or rather, the United States marshal and his subordinates should control and use it, or so much of it as they thought necessary for any and all purposes about the prison. I protested against it as unjust, claiming that the territory was entitled to the proceeds of the labor of all her convicts or none, but the attorney general refused to yield, and the contract, which expires on the first day of August next, was signed. The contract binds the territory to pay to the United States one dollar per day for each person convicted of a violation of the laws of the territory and confined in the United States penitentiary at Deer Lodge. This subject should receive your careful consideration.

The law for the collection of statistics is so imperfectly executed that the tables of statistics contained in the report of the territorial auditor are totally unreliable. Unless additional legislation can be devised for the more faithful execution of the law, the same should be repealed, and the cost of the attempt to execute the law saved to the territory.

The report of the officers of the Historical Society of Montana is transmitted for your information. The society has made commendable progress in the labor of preserving the incidents connected with the early history of the territory. The first volume of the contributions to the society has just been published, and it re-

fleets great credit upon those who compiled it, and the society. The appropriation has been judiciously expended.

I have the honor to submit the report of the judges of the supreme court, accounting for the appropriations for the territorial law library for the years 1875-6. As the territory is not in a financial condition to pay salaries to additional officers, and as the territorial auditor is now *ex-officio* librarian and has charge of the territorial library, I recommend that the law library be transferred to his custody, under such regulations as may enable him carefully to preserve the same.

The executive order increasing the area of the reservation of the Crow Indians in this territory has been revoked by the president. The order was secured by false representations made by parties connected with Indian affairs, and as soon as the facts were presented to the president, he very readily revoked the order.

The books of the Auditor's and Treasurer's offices were not examined by your predecessors. I respectfully request that you appoint a committee, at an early day in the session, to make an examination of the books and vouchers connected with said offices.

The estimated yield of the mines of the territory, in gold, silver, and copper, for the year ending June 30, 1876, is \$4,233,489.93.

In pursuance of the joint resolution of congress, approved July 3, 1876, I made a requisition on the secretary of war for Montana's quota of arms, and have received five hundred breech-loading Springfield rifle-muskets, and twenty-five thousand metallic cartridges. This property belongs to the territory, and is carefully stored in a fire-proof building in this city, subject to the pleasure of the legislature. The freight on the same from the United States arsenal at Rock Island, Illinois, to Helena, is charged to the territory, and provision should at once be made for its payment. This property should be placed in charge of some bonded territorial officer, and he be required to keep the same in good condition, and that the property be issued only to regularly organized and officered militia companies, making the officers and men responsible for the arms issued to their respective companies. The organization of the militia of the territory, under laws similar to those of the states where militia organizations are kept up, is certainly demanded by every consideration of public safety.

The numerous tribes of Indians in the territory, that may become hostile when least expected, should secure, under proper regulations, the organization and discipline of a well trained militia. Several applications have been made for authority to organize militia companies during the past summer, but as only general authority could be given, no companies were organized except at Virginia City, where a company was organized, and is now under a high state of discipline.

A well trained militia is a strong moral force in a community, acting as a conservator of the peace, and the absence of it weakens the civil authorities, and is an inducement to the disorderly to disregard the laws for the preservation of the public peace.

The progress made by the common schools of the territory, as shown by the report of the superintendent of public instruction, is very gratifying to every friend of popular education. The following is extracted from the report :

Whole number of children of school age,	4,271
Number of school districts,	99
Number of children attending school during the year,	2,734
Per cent of children enrolled attending school,	.61
Number of teachers employed,	110
Average length of school in days,	100
Number of children not attending any school during year,	1,537
Total amount appropriated for school purposes during the year,	\$35,287.06

The report of the superintendent of public instruction is submitted herewith, and I ask for it your careful and favorable consideration.

The wise provision of the Creator in assigning one day in seven for rest, should receive the same attention from us that it has from the statesman, the philanthropist, and patriot, throughout the length and breadth of our land. By obedience to this law of the Sabbath, the bonds that unite society are strengthened, our citizens are elevated to a higher plane of moral greatness, while the homes and happiness of all our people are enhanced thereby. This is the fourth time I have submitted this subject to the representatives of

the people, and I do most earnestly ask your careful and considerate attention to the same ; for, as we so much desire the immigration of the best citizens from the older states to Montana, we should evince a laudable disposition to throw around them the same safeguards for their peace and happiness in their new homes that they have enjoyed elsewhere. I here reiterate the language used in my former message : "I cannot too strongly urge the enactment of a law prohibiting sporting, rioting, quarreling, and engaging in common labor (works of necessity and charity excepted), on the first day of the week, commonly called Sunday, excepting from its provisions those of our citizens who religiously observe the seventh day of the week as a day of rest."

In conclusion, accept the assurance that in all your endeavors to legislate for the public good, you may confidently rely on my zealous co-operation ; and my sincerest wishes will be accomplished if your legislation shall be directed to such wise ends that this legislative assembly will ever be remembered with gratitude by the people of Montana.

BENJ. F. POTTS.

HELENA, MONTANA, January 8, 1877.

On motion of Mr. Cullen, the message was ordered to lay on the table until after the appointment of the standing committees.

On motion of Mr. Brown, the Council adjourned until Monday, the 15th inst., at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

EIGHTH DAY.

COUNCIL CHAMBER, }
January 15th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—absent on leave, Mr. Mitchell.

Prayer by Rev. E. L. Toy, Chaplain.

Minutes of sixth day read and approved.

Mr. President then announced the following standing committees:—

1. *Ways and Means*—Waterbury, Ford, Allebaugh.
2. *Judiciary*—Cullen, Brown, Watson.
3. *Internal Improvements*—Mitchell, McAdow, Lewis.
4. *Public Lands*—Tatem, Hays, Ford.
5. *Federal Relations*—Brown, Tatem, Watson.
6. *Education and Labor*—McAdow, Tatem, Constans.
7. *Towns and Counties*—Watson, Hays, Brown.
8. *Military Affairs*—Tatem, Cullen, Waterbury.
9. *Incorporations*—Constans, Lewis, Mitchell.
10. *Agriculture and Manufactures*—Ford, Hays, Tatem.
11. *Elections*—Allebaugh, McAdow, Brown.
12. *Indian Affairs*—Cullen, Hays, Ford.
13. *Mines and Minerals*—Lewis, Waterbury, Tatem.
14. *Immigration*—McAdow, Watson, Tatem.
15. *Roads and Highways*—Hays, Ford, Allebaugh.
16. *Engrossment*—Brown, Ford, Hays.
17. *Enrollment*—Lewis, Mitchell, Waterbury.
18. *Printing*—Watson, Mitchell, Waterbury.

Mr. Tatem, on his request, was excused from serving on the Committee on Enrollment, and Mr. Waterbury appointed in his place.

On motion of Mr. Hays, the list of standing committees was referred to the Committee on Printing, with instructions to have a sufficient number of copies printed for the use of the Council.

Mr. Brown gave the following notice:

MR. PRESIDENT:—I will, on to-morrow, or some future day during the present session of the Council, introduce a bill for an act entitled "An Act to increase and render uniform the compensation of grand and trial jurors in the district courts in the several counties of the territory of Montana."

BROWN.

On motion of Mr. Lewis, the Governor's message was taken from the table.

Mr. Cullen moved that all that portion of the message pertaining to the financial condition of the territory, and the several counties, be referred to the Committee on Ways and Means. Carried.

On motion of Mr. Lewis, all that portion relating to the insane was referred to the Committee on Internal Improvements.

On motion of Mr. McAdow, all that portion relating to ammunition, arms, and militia, was referred to the Committee on Military Affairs.

On motion of Mr. Brown, all that part relating to schools and education was referred to the Committee on Education.

On motion of Mr. Brown, all that portion relating to mines and minerals was referred to the Committee on Mines and Minerals.

On motion of Mr. Lewis, all those portions referring to apportionment and representation were referred to the Committee on Elections.

On motion of Mr. McAdow, that portion relating to railroad matters was referred to the Committee on Roads and Highways.

On motion of Mr. Cullen, that portion relating to the organization of Big Horn county was referred to the Committee on Towns and Counties.

On motion of Mr. Lewis, all that portion referring to Sunday laws was referred to the Committee on Judiciary.

On motion of Mr. Brown, the following resolution was adopted:

Resolved, That the Secretary of Montana territory be requested to furnish each member of this body with four copies of the daily papers—such as members may select.

On motion of Mr. McAdow, all that portion of the Governor's message relating to the penitentiary was referred to the Committee on Federal Relations.

On motion of Mr. Waterbury, the Council went into executive session for the purpose of considering certain nominations made by the Governor.

Council resumed with open doors.

The Chief Clerk was instructed to make a minute of the fact that the Council, in executive session, had confirmed the following nominations of the Governor for notaries public, to-wit:

Robert McGonigal, of Dawson county.

John M. D. Green, of Beaver Head county.

Oliver B. Toole, of Lewis and Clarke county.

Henry H. Guthrie, of Lewis and Clarke county.

Robert H. Williams, of Lewis and Clarke county.

Henry M. Hill, of Jefferson county.

William S. Hollowbush, of Dawson county.

Joseph J. Williams, of Lewis and Clarke county.

Albert J. McKiernan, of Chouteau county.

John H. Shober, of Lewis and Clarke county.

Samuel F. Dunlap, of Beaver Head county.

Joseph K. Toole, of Lewis and Clarke county.

Walter W. DeLacey, of Lewis and Clarke County.

Anson Ford, of Deer Lodge county.

Geo. D. Thomas, of Gallatin county.

Joseph J. Davis, of Gallatin county.

Harry R. Comly, of Lewis and Clarke county.

On motion of Mr. Brown, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—absent on leave, Mr. Mitchell.

Mr. Cullen obtained leave of absence for the afternoon.

Mr. Brown moved that two additional members be added to the Judiciary Committee; which motion prevailed, and the chair appointed Messrs. Tatem and Lewis.

Mr. Tatem introduced the following concurrent resolution, C. C. R. No. 1:

Resolved by the Council (the House concurring), That a joint committee of two members of the Council, with three members of the House, be appointed to examine and audit the accounts of the Territorial Auditor and Treasurer; said committee to be empowered to employ an expert, if in their judgment it should be necessary.

On motion of Mr. Lewis, the resolution was adopted.

The chair appointed Messrs. Tatem and McAdow as such committee.

Mr. McAdow gave the following notice:

MR. PRESIDENT:—I hereby give notice that I will, on to-morrow, or some future day, offer a bill for an act entitled "An Act to provide a system of common schools."

P. W. McADOW.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 15th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that the Speaker has announced the standing committees of the House, and that the House has ordered the same printed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Brown gave notice as follows:

MR. PRESIDENT:—I will to-morrow, or some future day during the present session of the Council, introduce a bill for an act entitled “An Act to repeal section 1 of an act entitled ‘An Act concerning county warrants, and for other purposes.’” (on page 638, codified statutes), approved January 1st, 1872.

BROWN.

The Committee on Joint Rules made the following report:

MR. PRESIDENT:—The Committee on Joint Rules for the government of the two Houses of the Legislative Assembly, appointed pursuant to House Concurrent Resolution No. 1, beg leave to respectfully report that the members of such committee have agreed upon the following joint rules of the Council and House, for their government during the present session, to-wit:

RULE NO. 1.—The chamber of the Council and the hall of the House of Representatives shall be open from 8 o'clock A. M. until 11 o'clock P. M. of each day during the session, unless, by resolution of the Council, its chamber, or by resolution of the House, its hall, shall be closed.

RULE NO. 2.—The presiding officer of each House, and, subject to his directions, the Sergeant-at-Arms of each House, shall have general supervision and control of the room in which such House may meet, and shall see that the Doorkeeper and Watchman thereof perform their several duties; and the Watchman of each House shall be responsible for all property left therein by the government and the members respectively.

RULE No. 3.—The Doorkeepers, at all times when the rooms of the Houses, or either of them, shall be open, shall be at their posts, and shall admit no person upon the floor of their Houses not privileged thereto, except that during any recess a member may invite any person to the floor.

RULE No. 4.—No moneys from the territorial treasury shall be expended, nor shall any indebtedness or liability of the territory be incurred by either House, except upon a concurrent or joint resolution of the two Houses.

RULE No. 5.—The title to a bill shall briefly state its general object, nor shall it refer by title to any bill of which it may be amendatory; nor shall there be a reference in the title or body of any bill to the codified statutes, or to any volume of statutes, or page therein; and every bill shall be numbered by the Clerk, and the title thereof and the name of the member introducing the same, shall be endorsed thereon.

RULE No. 6.—Neither House, during the session, shall adjourn for more than than one day without the consent of the other, nor to any other place than that in which such House shall regularly be sitting.

RULE No. 7.—Messages shall be transmitted between the two Houses by the Chief or Assistant Clerk, or Sergeant-at-Arms, or by such other officer of each House as its sense of propriety may dictate; which messages shall keep each House informed with promptness of all notices given and bills introduced, and of the general condition and state of the business of the other.

RULE No. 8.—Upon the presentation of an enrolled bill by the Joint Enrolling Committee of the two Houses, to the presiding officer of one of the Houses for his signature thereto, he shall rise in his place and give notice that he is about to sign the same, giving the title thereof, whereupon, if any member shall signify his desire so to do, he shall be permitted to examine the same, but no objections to the presiding officer signing the same shall be of any avail if the same conforms to the engrossed bill as it passed both Houses.

RULE NO. 9.—The Enrolling and Engrossing Clerks of the two Houses, under the direction of the presiding officer of each House respectively, when not engaged in enrolling or engrossing bills, shall assist the several select or standing committees.

RULE NO. 10.—The journal of each House, in all cases where bills are mentioned, shall contain not only the number, but also the title of the bills referred to.

RULE NO. 11.—In every case of disagreement between the two Houses, if either House request a conference, and appoint a committee for that purpose, the other House shall appoint a committee to confer therewith upon the subject of their disagreement. They shall meet at a convenient time, to be agreed upon by the chairman, and, having conferred freely, each shall report to their respective Houses the result of their conference.

RULE NO. 12.—When a message shall be sent from either House to the other, it shall be announced at the door of the House to which it is sent, by the Doorkeeper thereof, and shall be respectfully communicated to the chair by the person by whom it is sent.

RULE NO. 13.—When a bill shall have passed both Houses, it shall be duly enrolled by the Enrolling Clerk of the House in which it originated; and the fact of its origin shall be certified by the endorsement of the Clerk thereof.

RULE NO. 14.—When bills are enrolled they shall be examined by a joint committee of two from the Council and two from the House of Representatives, who shall be a standing committee for that purpose, and who shall carefully compare the enrollment with the engrossed bills as passed by the Houses, correct any errors therein, and make report thereof forthwith to their respective Houses.

RULE NO. 15.—After said report, each bill shall be signed, first by the Speaker of the House of Representatives, and then by the President of the Council, in the presence of their respective Houses, while in session.

RULE NO. 16.—After the bill shall have thus been signed in each House, it shall be presented by said committee to the Gover-

nor for his approval, and they shall forthwith report the day and hour of presentation, which shall be entered upon the journal of each House.

RULE No. 17.—All memorials to Congress, or to any officer or other authority of the government, after they shall have passed both Houses, shall be carefully enrolled, signed by the Speaker of the House and President of the Council; and shall be transmitted by the Chief Clerk of the House in which they originated to the President of the Senate and Speaker of the House of Representatives, or to the authority memorialized, and a copy to our delegate in Congress.

RULE No. 18.—When any bill, joint resolution, or memorial, which shall have passed in one House is rejected in the other, notice of said rejection shall be given to the House which has passed the same.

RULE No. 19.—When a bill, resolution, or memorial, which shall have passed one House is rejected in the other, it shall not again be introduced during the session without five days notice, and leave of two-thirds of the members voting thereon.

RULE No. 20.—Each House shall transmit to the other, with any bill, resolution, or memorial, all papers upon which the same shall be founded.

RULE No. 21.—When each House shall have adhered to their disagreement, a bill or resolution is lost.

RULE No. 22.—When any bill, memorial, or resolution is ordered to be printed, a sufficient number of copies shall be printed for the use of both Houses, and the quota for each House delivered to its Sergeant-at-Arms.

RULE No. 23.—It shall be the duty of the Chief Clerks of the House of Representatives and the Council, when any document is ordered to be printed in their respective Houses, forthwith to communicate such order to the other House.

T. WATSON,

B. H. TATEM,

Committee on the part of the Council.

On motion of Mr. Brown, the Council went into Committee of the Whole on the report of the Committee on Joint Rules.

Council resumed.

Mr. Brown, chairman of the Committee of the Whole, reported the joint rules of the Council and House back to the Council, with a recommendation that they be adopted as a whole.

On motion of Mr. Tatem, the report and the joint rules, as reported by the joint committee, were adopted, and the President referred the same to the Printing Committee.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 15th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that notices of the introduction of bills have been given as follows:

By Mr. Chadwick—"An Act to establish and maintain a hospital for the insane, and otherwise provide for the insane of the territory."

Also, "An Act to pay for the support and maintenance of the insane."

By J. G. Sanders—"An Act in relation to counties and county officers."

By Witter—"An Act relative to live stock."

By Hickman—"An Act for the repeal of an act entitled 'An Act concerning the management of live stock, and to protect the interest of stock-growers in the territory of Montana,'" approved February 11th, 1876.

By Davis—"An Act regulating the duties of county commissioners."

That C. C. R. No. 1 has passed the House, and that Messrs. Chadwick, Kessler, and Steell were appointed the committee contemplated therein.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. McAdow gave notice as follows :

MR. PRESIDENT :—I hereby give notice that I will to-morrow, or on some future day, offer a bill entitled "An Act providing for the election of county assessors."

P. W. McADOW.

Mr. Tatem introduced the following resolution :

Resolved, That the privilege of a seat on the floor of the Council Chamber be extended to the territorial executive officers, judges of the supreme court, members of the House of Representatives, members of the bar, and reporters of the press.

On motion of Mr. Brown, the resolution was adopted.

The following communication was received :

OFFICE OF THE SECRETARY OF MONTANA, }
HELENA, January 15th, 1877. }

To the Honorable, the President and Members of the Council of Montana Territory :

GENTLEMEN:—In reply to your resolution of this date, requesting the Secretary of the territory to furnish each member of your honorable body with four daily papers, I have the honor to state that I am not authorized to incur such expenditure. For further information on this subject I respectfully refer you to my communication of January 5th, 1876, page 24, Council journal, 9th session; and also to a report of a special committee of the House of Representatives of the Eighth Legislative Assembly of Montana, page 18 of House journal of said eighth session.

Your obedient servant,

J. E. CALLAWAY, *Secretary*.

On motion of Mr. Brown, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk*.

NINTH DAY.

COUNCIL CHAMBER, }
January 16th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by the Rev. David Morton, Chaplain.

Minutes of yesterday read and approved.

The following notices were given:

MR. PRESIDENT:—I will on to-morrow, or some future day, introduce a bill to repeal an act approved February 11th, 1876.

HAYS.

MR. PRESIDENT:—I will on to-morrow, or some subsequent day, introduce a bill entitled "A Bill to provide for the appointment of commissioners of deeds."

CULLEN.

Mr. Hays, by unanimous consent, introduced C. B. No. 1, "An Act to repeal an act approved February 11th, 1876," which was read first and second times, and referred to the Committee on Internal Improvements.

Mr. McAdow introduced C. B. No. 2, "An Act providing for the election of county assessors;" read first and second times, and referred to Committee on Elections.

Mr. Brown moved to reconsider the vote by which the joint rules were adopted.

Mr. Tatem demanded the ayes and nays, and the motion prevailed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Waterbury, and Mr. President—11.

Nays—Tatem and Watson—2.

On motion of Mr. Hays, the Committee on Printing were requested to return the joint rules to the Council.

Mr. Hays moved to reject rules reported, and the Council adopt the joint rules of the Ninth Legislative Assembly.

Mr. Tatem called for a division of the question; and the reported rules were then rejected, and afterwards the joint rules of the ninth session of the Legislative Assembly were adopted.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 16th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that notices of the introduction of bills have been given as follows:

By Mr. Galen—"An Act to exempt from taxation, for a term of years, the first woolen mill and its machinery erected in this territory."

By Mr. Dixon—"An Act imposing certain duties upon the Governor of the territory."

By Mr. Chadwick—"An Act to amend an act entitled 'An Act to authorize the counties interested to assist in building a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena,' approved February 11th, 1876.

By Mr. Word—"An Act to amend an act providing for the election of county assessors," approved February 9th, 1876.

That Mr. Chadwick has introduced H. B. No. 1, "An Act to establish and maintain a hospital for the insane, and otherwise provide for the insane of the territory."

Also, H. B. No. 2, "An Act to pay for the support and maintenance of the insane."

That H. B. No. 1 was ordered printed.

That sixty copies of the House rules and joint rules were ordered printed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Cullen introduced the following:

Resolved, That it is the sense of this Council that no joint rules of the House and Council are necessary for the transaction of business.

CULLEN.

Mr. Brown moved to lay the resolution on the table; and the motion prevailed.

Mr. Waterbury introduced C. C. R. No. 2, directing the Committee on Auditor's and Treasurer's accounts to inquire into bullion statistics of territory; which resolution was adopted.

On motion of Mr. Hays, the Council went into executive session.

Council resumed—doors open.

The Clerk was instructed to make a minute on the journal that the Council, in executive session, had confirmed the following nominations by the Governor for notaries public, to-wit:

Frank H. Woody, Missoula county.

Thomas J. Lowry, Lewis and Clarke county.

Mr. Tatem was granted leave of absence for the afternoon.

Mr. Tatem moved to reconsider the vote by which the joint rules of the Ninth Legislative Assembly were adopted, and the joint rules reported at this session were rejected; which motion prevailed, and the consideration of the matter was made the special order for 2:30 o'clock this afternoon, in Committee of the Whole.

On motion of Mr. Mitchell, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed.—Mr. President in the chair.

Roll called—absent, Messrs. Cullen and Waterbury.

On motion of Mr. Brown, the Council went into Committee of the Whole on joint rules.

Council resumed.

On motion of Mr. Brown, a call of the House was ordered.

Roll called—absent, Mr. Waterbury.

The President ordered Mr. Waterbury to be brought in by the Sergeant-at-Arms.

Mr. Waterbury appearing in his seat, on motion of Mr. Mitchell, further proceedings under the call were dispensed with.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 16th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that the House has rejected C. C. R. No. 2.

Respectfully,

A. H. BARRET, *Chief Clerk.*

2:30 o'clock having arrived, the Council went into Committee of the Whole on the joint rules.

Council resumed.

Mr. McAdow made the following report:

MR. PRESIDENT:—The Committee of the Whole have had under consideration the joint rules reported to the Council by the joint committee from both Houses, and respectfully report the same back to the Council, and recommend as follows:

That rules 1, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 be adopted.

That rules 2 and 23 be rejected.

That rule 5 be amended by striking out the words “nor shall it refer by title to any bill of which it may be amendatory, nor shall there be a reference in the title or body of any bill to the codified statutes, or page therein,” and that the rule, thus amended, be adopted.

That rule 14 of the joint rules of the ninth session be adopted for rule 23.

That the joint rules reported by the joint committee, thus amended, be adopted as a whole.

P. W. McADOW, *Chairman*.

On motion of Mr. Brown, the report was received and adopted.

On motion of Mr. Waterbury, the rules, as amended in Committee of the Whole, were adopted by the Council.

Mr. Cullen introduced C. C. R. No. 2, relative to filing copy of memorials in the Secretary's office, and, on his motion, the same was adopted.

The report of the Superintendent of Public Instruction was received, and, on motion of Mr. Hays, referred to the Printing Committee, with instructions to have the same printed.

Mr. Waterbury moved that the standing Committee on Enrollment be abolished; which was lost by the following vote:

Ayes—Hays, Lewis, and Waterbury—3.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Mitchell, McAdow, Tatem, Watson, and Mr. President—10.

Mr. Cullen offered the following:

Resolved, That the following be adopted as Council rule No. 55, viz: When a committee mentions a bill in their report, they shall give its title as well as its number.

Which resolution was adopted by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Mr. Hays moved to amend 35th Council rule by adding thereto the following: "Except in cases of appeals from the chair, in which case the decision of the chair is sustained;" which motion was lost.

On motion of Mr. McAdow, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk*.

TENTH DAY.

COUNCIL CHAMBER, }
January 17th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday and approved.

The following notice was given:

MR. PRESIDENT:—I will on to-morrow, or some future day, introduce a bill to amend an act approved February 11th, 1876, entitled "An Act to provide for the support, care, and maintenance of the county sick and poor."

HAYS.

Mr. McAdow introduced C. B. No. 3, "An Act to provide a system of common schools." Read first and second times, and referred to the Printing Committee.

Mr. Cullen introduced C. B. No. 4, "An Act to provide for the appointment of commissioners of deeds." Read first and second times, and referred to the Judiciary Committee.

Mr. Brown introduced C. B. No. 5, "An Act to repeal section 1, chapter 94, of the codified statutes of Montana territory," approved January 11th, 1872. Read first and second times, and referred to the Judiciary Committee.

The following communication was received:

HELENA, January 16th, 1877.

Hon. Thomas Watson, chairman of the Committee on Printing of the Council:

SIR:—I have the honor herewith to return the report of Hon. Cornelius Hedges, Superintendent of Public Instruction, which was handed to me for the purpose of being printed.

You will please inform the Council that, from instructions received from the treasury department, and concerning the moneys appropriated for printing purposes, I am unable to print the same at the expense of the United States.

I regret that this is the case, as the report is a valuable document, and should be printed for general distribution among the patrons and officers of the public schools of our territory.

I have the honor to be,

Your obedient servant,

J. E. CALLAWAY, *Secretary of Montana.*

On motion of Mr. Waterbury, the report of the Superintendent of Public Instruction was taken from the Committee on Printing and tabled.

The following communication was received and read:

HELENA, MONTANA, January 17th, 1877.

To the Honorable President of the Council:

SIR:—The following resolution has been unanimously adopted by the board of directors of the Helena Library Association:

“*Resolved*, That the members and officers of the Tenth Legislative Assembly of Montana, while in session, are invited to avail themselves freely of the privileges of the Helena library.”

The reading room of the association is in the *Herald* building, Broadway, this city, and is open from 2 to 4 o'clock, and from 7 to 9 o'clock P. M., each day, except Sundays, when it is open only from 1 to 2 o'clock P. M. I have the honor to be,

Very respectfully,

MASSENA BULLARD,
Secretary Helena Library Association.

On motion of Mr. Tatem, a vote of thanks was tendered to the Helena Library Association for their kind invitation.

On motion of Mr. Waterbury, the Council went into executive session.

Council resumed—doors opened.

The Clerk was instructed to enter upon the journal that the Council, in executive session, confirmed the nomination of the Governor of Michael A. Meyendorff, of Lewis and Clarke county, to be a notary public.

On motion of Mr. Waterbury, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed.

Roll called—absent, Messrs. Tatem and Cullen.

Mr. Tatem was excused from attendance during the afternoon.

HOUSE OF REPRESENTATIVES, }
January 17th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices of the introduction of bills have been given:

By Mr. Porter—A bill entitled “An Act to amend section 138 of an act entitled ‘An Act to regulate proceedings in civil cases in the courts of justice of the territory of Montana,’ ” approved February 13th, 1874.

Also, a bill entitled “An Act to repeal an act entitled ‘An Act in relation to administrators and executors,’ ” approved May 6th, 1873.

By Mr. Thompson—A bill to amend section 31 of “An Act to provide biennial elections in the territory of Montana.”

By Mr. Vivion—A bill for “An Act to regulate and fix the fees of sheriffs.”

By Mr. Rotwitt—A bill for “An Act re-apportioning the members of the Legislative Assembly of Montana.”

By Mr. Brainard—“An Act to consolidate the offices of Meagher county.”

Bills were introduced :

By Mr. Dixon—H. B. No. 3, a bill for “An Act imposing certain duties upon the Governor of the territory.” Ordered printed.

By Mr. Chadwick—H. B. No. 4, “An Act to amend an act authorizing the counties interested to assist in building a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena, Montana,” approved February 11th, 1876. Ordered printed.

By Mr. Hickman—H. B. No. 5, “An Act for the repeal of an act concerning the management of live stock,” approved February 11th, 1876.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. McAdow, by unanimous consent, introduced C. B. No. 6, “An Act in relation to printing.” Read first and second times, and referred to the Committee on Immigration.

Mr. Mitchell reported as follows :

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was referred C. B. No. 1, an act to repeal C. B. No. 62,

approved February 11th, 1876, "An Act to prohibit the sale of intoxicating liquors on general election days," would respectfully report the same back to the Council, and recommend its passage.

MITCHELL, *Chairman*.

Mr. Lewis gave notice as follows :

MR. PRESIDENT:—I give notice that I will on to-morrow, or some subsequent day of the session, introduce a bill for an act entitled "An Act relating to surveyed school lands."

LEWIS.

C. B. No. 1, "An Act to repeal an act approved February 11th, 1876," was ordered engrossed for a third reading.

The following communication from the Governor, and accompanying proposition to build a railroad, was received, read, and referred to the Committee on Internal Improvements:

MONTANA TERRITORY,
EXECUTIVE DEPARTMENT,
HELENA, January 17th, 1877. }

To the Legislative Assembly:

I have the honor to submit to the Legislative Assembly a written proposition from Jay Gould and others, to extend the Utah Northern Railroad to a point in Montana as far north as the mouth of Big Hole, for the sum of one million five hundred thousand dollars in territorial bonds.

Only one copy of the proposition having been furnished this department, the same is sent to the House of Representatives, and a copy to the Council.

Respectfully,

B. F. POTTS.

To the Honorable Legislative Assembly of Montana :

Learning that the people of your territory are desirous of having communication by railroad established between your business centers and roads leading to the great cities of the United States, and that a liberal subsidy will be granted by your Legislative Assembly to any responsible corporation or individuals that will undertake to build such railroad, we therefore submit to you the following proposition, to-wit:

First. That we will undertake, in consideration that such a subsidy as hereinafter named is voted, to build a narrow gauge road of the width of the Utah Northern Railroad, starting at Franklin. After obtaining a survey of the contemplated route, to run the road to Montana, and to terminate at a point in Montana as far north as the mouth of Big Hole river, and said railroad to be completed at the rate of one hundred miles per year from and after the commencement of same.

Second. That the said road shall be supplied with all the necessary rolling stock to do and transact the business of the said road as it progresses.

Third. That the said road, which will be called the Utah Northern Extension Railroad, and will be constructed as above named, in consideration of your territory granting to the individuals or corporation building the said road, bonds to an amount of one million five hundred thousand dollars (\$1,500,000), basing the entire length of the road at three hundred miles which would be built under and pursuant to this proposition.

Fourth. That the amount of bonds to which the said subscribers or corporation shall be entitled, when the whole road is constructed, shall be issued and placed in escrow in the city of New York, but only to be delivered in accordance with the provisions hereinafter contained.

Fifth. That said bonds shall draw interest at the rate of eight per cent currency per annum, payable in New York city semi-annually, provided that interest shall only be computed from the time of each delivery thereof to the parties engaged in the construction of said road.

Sixth. That the construction of said road shall commence at the said point mentioned, Franklin, and continue towards the designated terminus, and that from the said place of commencement to the said terminus line in Montana, there shall be delivered and paid over, upon the construction and opening for freight and passengers of every twenty miles of said railroad from said starting point, the *pro rata* proportion of bonds; that is to say, five thousand dollars per mile.

Seventh. The depository of said bonds shall be in the city of New York, to be fixed and agreed upon by mutual consent of parties in interest, and the work of constructing said road shall be commenced within sixty days after the bonds shall be deposited as above stated.

The foregoing proposition is made in good faith, and with the intention of building the said road if the aid asked for is granted by your territory. We are satisfied of our ability to construct the road within the time and in the manner above named.

All of which is most respectfully submitted to your honorable body to act upon.

Dated at New York, this 23d day of December, 1876.

(Signed.)

OLIVER AMES.

E. ATKINS.

SIDNEY DILLON.

JAY GOULD.

F. GORDON DEXTER.

S. RICHARDSON.

ROYAL M. BASSETT,

President Utah Northern R. R. Co.

I certify that the foregoing is a true copy of the original proposition.

B. F. POTTS, *Governor.*

Mr. Waterbury offered the following amendment to rule 35, and moved its adoption, to-wit:

Amend rule 35, after the word "lost" insert "except in cases of appeal from the chair, then the chair shall be sustained;" which was lost by the following vote:

Ayes—Hays, Lewis, Mitchell, McAdow, and Waterbury—5.

Nays—Allebaugh, Brown, Constans, Ford, Watson, and Mr. President—6.

Absent—Cullen and Tatem.

On motion of Mr. Mitchell, the Council went into executive session.

Council resumed, doors opened, and the Chief Clerk was directed to enter upon the journal that the Council, in executive session, had confirmed the following nominations of the Governor for notaries public, to-wit:

N. D. Johnson, Madison county.

G. M. Miles, Big Horn county.

On motion of Mr. Ford, the Council adjourned until 10 o'clock A. M., to-morrow.

HARRY R. COMLY, *Chief Clerk.*

ELEVENTH DAY.

COUNCIL CHAMBER, }
January 18th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Minutes of yesterday read and approved.

The following report was received:

MR. PRESIDENT:—Your Committee on Engrossment would beg leave to report that C. B. No. 1, an act to repeal an act approved February 11th, 1876, is properly engrossed.

BROWN, *Chairman.*

Mr. Cullen gave notice as follows:

MR. PRESIDENT:—I will on to-morrow, or some subsequent day, introduce a bill entitled "An Act to provide for the employment of stenographers in the district courts."

CULLEN.

Mr. Hays gave notice as follows:

MR. PRESIDENT:—I will on to-morrow, or some future day, introduce a bill in relation to swine.

HAYS.

Mr. Mitchell gave notice as follows:

MR. PRESIDENT:—Notice is hereby given that on to-morrow, or some subsequent day of the session, I will introduce a bill entitled "An Act to secure railroad communication to the people of Montana."

MITCHELL.

Mr. Hays introduced C. B. No. 7, "An Act to provide for the support, care, and maintenance of county sick and poor." Read first and second times, and referred to Committee on Towns and Counties.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES, }
January 17th, 1877. }

MR. PRESIDENT:—I am directed to inform your honorable body that Mr. Witter introduced H. B. No. 6, a bill relating to live stock.

Respectfully,

A. H. BARRET, *Chief Clerk.*

HOUSE OF REPRESENTATIVES, }
January 17th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that the House has concurred in the Council amendment to rule 5.

That the Council is respectfully requested to concur in the adoption of rule 2.

That the House adopted C. C. R. No. 3, with the following amendment: In line 4, after the word "thereof," insert the following: "duly signed by the Speaker of the House of Representatives and the President of the Council;" also, add to the resolution the words: "by the Chief Clerk of the House in which the same originated."

I am also instructed to transmit the accompanying report of the Committee on Rules.

Respectfully,

A. H. BARRET, *Chief Clerk.*

MR. SPEAKER:—Your Committee on Rules, to whom was referred the communication from the Council as to the action of that House upon the subject of joint rules for the government of the two Houses, have had the same under consideration, and they recommend that the House concur in the Council amendment to rule 5, heretofore reported by the committee.

The members of the committee deeming rule 2, heretofore recommended by the Committee on Joint Rules, of importance to the members of each House, and a proper rule to be adopted, respectfully recommend that the Council be respectfully requested to concur with the House in its adoption.

The committee not being advised that there is such an office as Secretary of the Council, recommend that the House respectfully request the Council to concur with the House in the adoption of the joint rule 23, heretofore adopted by each House.

All of which is respectfully submitted.

A. E. MAYHEW, *Chairman.*

W. F. SANDERS.

W. J. McCORMICK.

R. P. VIVION.

On motion of Mr. Cullen, the Council concurred in House amendments to C. C. R. No. 3.

Mr. Tatem moved to concur in the action of the House relating rule 2, reported by the joint committee, and recommended in the report of the House committee; which motion prevailed.

On motion of Mr. Tatem, the Council adopted joint rule 23, as reported by the Joint Committee on Rules.

On motion of Mr. McAdow, the rules were referred to the Joint Committee on Rules, and ordered printed.

On motion of Mr. Mitchell, C. B. No. 1, an act to repeal an act approved February 11th, 1876, was indefinitely postponed.

The following report was received:

MR. PRESIDENT:—The Committee on Judiciary, to whom was referred C. B. No. 4, "An Act providing for the appointment of commissioners of deeds," beg leave to report the same back to the Council, with an amendment in section 2, line 8—strike out the word "two" (2), and insert the word "three" (3), in lieu thereof, and recommend its passage.

BROWN, *Chairman*.

W. E. CULLEN.

WATSON.

On motion of Mr. Waterbury, the report of the committee and the amendment reported were adopted, and the bill ordered engrossed, as amended.

The following report was received:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 5, "An Act to repeal section 1 of chapter 94 of the codified statutes of Montana territory," approved January 11th, 1872, have had the same under consideration, and respectfully report the same back to the Council, with the recommendation that the same do pass.

W. E. CULLEN, *Chairman*.

BROWN.

C. B. No. 5, "An Act to repeal section 1, chapter 94, of the codified statutes of Montana territory," approved January 11th, 1872, was ordered engrossed for third reading.

On motion of Mr. Mitchell, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called.

The following report was received, and the bill mentioned therein was ordered engrossed:

MR. PRESIDENT:—The Committee on Towns and Counties, to whom was referred C. B. No. 7, "An Act relating to the maintenance of the county sick and poor," beg leave to report the same back to the Council, and recommend its passage. WATSON.

The following report was received, and the bill mentioned therein ordered engrossed:

MR. PRESIDENT:—The Committee on Elections respectfully report C. B. No. 2, "An Act providing for the election of county assessors," back to the Council, and recommend its passage.

Respectfully,

ALLEBAUGH, *Chairman.*

The following report was received:

MR. PRESIDENT:—Your Committee on Immigration, to whom was referred C. B. No. 6, "An Act in relation to printing," would respectfully report the same back to the Council, with the following as a substitute:

"Section 1. That there shall be and is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, the sum of five hundred (500) dollars, for the purpose of printing and distributing, in pamphlet form, as soon as practicable, the centennial address on the origin, growth, and resources of Montana, delivered at the centennial exposition, by W. A. Clark, Esq.

"Section 2. The Governor of the territory is hereby appointed the agent of the territory to carry out the provisions of this act with the least possible expense to the territory; and also to prefix thereto a table of distances from the principal towns to and from railroad and river communication.

"Section 3. The Territorial Auditor is hereby authorized to draw his warrant upon the Territorial Treasurer, in favor of the Governor, when the Governor shall pass to him the bills for printing and distributing of said pamphlets, and certify that the work has been satisfactorily performed.

"Section 4. This act shall take effect and be in force from and after its passage."

All of which is respectfully submitted.

McADOW, *Chairman.*

On motion of Mr. Cullen, the report was adopted, and the substitute adopted and ordered engrossed.

The following reports were received :

MR. PRESIDENT:—Your Committee on Engrossment, having examined C. B. No. 5, "An Act to repeal section 1, chapter 94, of the codified statutes," respectfully report the same correctly engrossed.

BROWN, *Chairman*.

FORD.

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 4, a bill to provide for the appointment of commissioners of deeds, would respectfully report the bill correctly engrossed.

FORD.

Mr. McAdow gave notice as follows:

MR. PRESIDENT:—I hereby give notice that I will on to-morrow, or some future day, offer a bill, an act entitled "An Act to compel owners of ditches to keep the same in repair."

McADOW.

Mr. Hays introduced, by unanimous consent, C. B. No. 8, "An Act in relation to swine." Read first and second times, and, on motion Mr. Tatem, referred to the Committee on Towns and Counties.

Mr. Brown offered the following resolution:

Resolved, That rule 20 of Council rules be amended by striking out the last word thereof, "sustained," and inserting in lieu thereof the word "*overruled*."

BROWN.

Mr. Waterbury moved its adoption; and the resolution was lost by the following vote:

Ayes—Brown, Constans, Hays, Mitchell, McAdow, Waterbury, and Mr. President—7.

Nays—Allebaugh, Cullen, Ford, Lewis, Tatem, and Watson—6.

HOUSE OF REPRESENTATIVES, }
January 18th, 1877. }

MR. PRESIDENT:—I am directed to inform your honorable body that notices of the introduction of bills have been given:

By Mr. McElroy—A bill relative to the garnisheeing or attaching the wages of the laborer in the hands of his employer.

By Mr. Vivion—A bill for “An Act for the relief of A. W. Tanner.”

By Mr. Robinson—A bill to provide for a teachers’ institute in the several counties in this territory.”

Also, a bill to amend the school law of this territory.

That Mr. Porter introduced H. B. No. 7, “An Act to repeal an act entitled ‘An Act in relation to administrators and executors,’” approved May 6th, 1873.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. B. No. 4, a bill to provide for the appointment of commissioners of deeds, was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

C. B. No. 5, “An Act to repeal section 1, chapter 94, of the codified statutes of Montana territory,” approved January 11th, 1872, was read third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

On motion of Mr. Ford, the report of the Superintendent of Public Instruction was taken from the table and partially read; and, on motion of Mr. Mitchell, the further reading was dispensed with; and, on motion of Mr. Cullen, the report was tabled.

On motion of Mr. Cullen, the chair appointed Messrs. Lewis and Mitchell as members of the Joint Enrolling Committee.

On motion of Mr. Ford, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk.*

TWELFTH DAY.

COUNCIL CHAMBER, }
January 19th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 2, "An Act providing for the election of county assessors," have examined the same and find the same correctly engrossed.

BROWN, *Chairman.*

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," find the same correctly engrossed.

BROWN, *Chairman.*

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 6, "An Act in relation to printing," have examined the same and find it correctly engrossed.

BROWN, *Chairman.*

Mr. Watson reported as follows :

MR. PRESIDENT:—The Committee on Towns and Counties, to whom was referred C. B. No. 8, "An Act relating to swine," beg leave to report the same back to the Council, with an amendment, viz: in section 3, line 17, after the word "Missoula" insert "and Beaver Head," and recommend its passage.

On motion of Mr. Hays, the bill and amendment reported were referred to the Committee of the Whole.

Notices were given as follows :

MR. PRESIDENT:—Notice is hereby given that on to-morrow, or some subsequent day of the session, I will introduce a bill entitled "An Act to allow time to the convicts of the territorial penitentiary for good behavior."
MITCHELL.

MR. PRESIDENT:—I will on to-morrow, or at an early day thereafter, introduce a bill to aid common schools.

WATERBURY.

Mr. McAdow introduced C. B. No. 9, "An Act to compel the owners of ditches to keep the same in repair;" was read first and second times, and referred to the Committee on Public Lands.

Mr. Brown introduced C. B. No. 10, "An Act to increase and render uniform the compensation of grand and trial jurors in the district courts of the territory of Montana." Read first and second times, and referred to the Committee on Ways and Means.

Mr. Cullen introduced C. B. No. 11, "An Act to provide for the employment of stenographers in the district court." Read first and second times, and referred to the Committee on Judiciary.

Mr. Cullen introduced C. J. R. No. 1, to provide for payment of freight on arms. Read first and second times, and referred to the Committee on Military Affairs.

C. B. No. 2, "An Act providing for the election of county assessors," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. B. No. 6, "An Act in relation to printing," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Mr. President—9.

Nays—Brown, Constans, Cullen, and Watson—4.

On motion of Mr. Cullen, the title was amended so as to read, "An Act in relation to printing the centennial address of W. A. Clark, Esq.," by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Mitchell, Waterbury, Watson, and Mr. President—9.

Nays—Hays, Lewis, McAdow, and Tatem—4.

C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," on motion of Mr. Waterbury, was referred to the Committee of the Whole.

The Council then went into Committee of the Whole to consider the general orders.

Council resumed—Mr. President in the chair.

On motion of Mr. Waterbury, the Council took a recess until 2:30 o'clock P. M.

2:30 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—absent, Mr. Mitchell.

On motion of Mr. Tatem, Mr. Mitchell was excused for the afternoon.

The Council went into Committee of the Whole to consider the general orders.

Council resumed—Mr. President in the chair.

The Committee of the Whole reported as follows:

MR. PRESIDENT:—The Committee of the Whole have considered C. B. No. 8, "An Act in relation to swine," and respectfully report the same back, and recommend that it pass, with the following amendments:

Amend section 2 by adding thereto: "and any swine so found running at large, in any such town or village, shall, upon complaint being made by any citizen, be seized by the sheriff or any constable of the county, and sold in the same manner as now provided by law for the sale of personal property on execution, and the proceeds thereof shall be paid into the common school fund of the county." Also, insert the words "one hundred and" before the word "fifty."

Also, C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," and recommend that it pass, with the following amendment:

Amend section 1, after the word "sections," add: "*Provided*, when any contract shall be let for the maintenance of such sick and poor, it shall be let to the lowest responsible bidder."

Respectfully,

ALLEBAUGH, *Chairman*.

On motion, the amendments reported by the Committee of the Whole to C. B. No. 8, "An Act in relation to swine," were adopted, and the bill ordered engrossed.

On motion of Mr. Hays, the amendment reported to C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," was adopted, and the bill ordered engrossed.

Mr. Tatem reported as follows:

MR. PRESIDENT:—Your Committee on Military Affairs, to whom was referred C. J. R. No. 1, to provide for the payment of freight on arms, would respectfully report the same back to the Council, with the recommendation that it do pass.

B. H. TATEM, *Chairman*.

Bill ordered engrossed.

The following report was received:

MR. PRESIDENT:—The undersigned, members of your Committee on Internal Improvements, to whom was referred the Governor's communication, with proposals submitted by Royal M. Bassett and others, relative to constructing the Utah Northern Extension Railroad, beg leave to report that, whereas, notice has been given for the introduction of a bill in this Council relating to said subject, we are of the opinion that further action of your committee in that direction is unnecessary.

MITCHELL.

LEWIS.

MCADOW.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 19th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices of the introduction of bills were given:

By Mr. Sanders (of Lewis and Clarke)—A bill for "An Act concerning corporations."

Also, a bill for "An Act to provide for publishing the reports of the supreme court of the territory."

Also, a bill for "An Act to curtail county expenses."

Also, a bill for "An Act to encourage railroad communication to Montana."

By Mr. Kessler—A bill for "An Act to define certain offenses, and provide punishment therefor."

By Mr. Robbins—A bill relative to marks and brands.

By Mr. Mood—A bill for the better protection of game.

By Mr. Vivion—A bill for "An Act to amend section 192 of an act concerning executors and administrators."

Also, a bill for "An Act to empower the county commissioners to open streets and alleys in towns and cities in this territory, regularly pre-empted and laid out under the law."

That bills were introduced as follows :

By Mr. Vivion—H. B. No. 8, a bill for "An Act for the relief of Albert W. Tanner." Read first and second times, and referred to the Committee on Ways and Means.

By Mr. Robinson—H. B. No. 9, "An Act to amend an act to provide for a system of common schools."

Also, H. B. No. 10, "An Act to authorize the holding of county teachers' institutes."

By Mr. Word—H. B. No. 11, "An Act to amend the criminal practice act, and for other purposes."

Also, H. B. No. 12, a bill for "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge."

By Mr. Thompson—H. B. No. 13, "An Act to amend section 31 of an act provide for biennial elections in the territory of Montana."

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Hays gave notice as follows :

MR. PRESIDENT:—I give notice that I will on to-morrow, or some future day, introduce a bill to encourage the construction of a railroad from the head of navigation on the Yellowstone river to the eastern boundary of Deer Lodge county. HAYS.

Mr. Brown gave notice as follows :

MR. PRESIDENT:—I will on to-morrow, or some future day during the present session, introduce a bill for an act to amend certain sections of an act entitled "An Act to provide against the killing of game and catching of fish, and to repeal an act entitled 'An Act relating to the killing of game and catching of fish,'" approved January 2d, 1872. BROWN.

On motion of Mr. Waterbury, the Council went into executive session.

Council resumed, and the doors opened.

The Clerk was directed to note on the journal that the Council, in executive session, confirmed the following nominations of the Governor for notaries public, to-wit:

John F. Forbis, of Deer Lodge county.

David A. Largey, of Madison county.

Mr. Ford offered the following:

Resolved, That the various committees to whom was referred the Governor's message, be requested to report on or before the 20th day of the session.

FORD.

On motion of Mr. Hays, the resolution was adopted.

On motion of Mr. Brown, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk*.

THIRTEENTH DAY.

COUNCIL CHAMBER, }
January 20th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," have examined the same and find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your committee to whom was referred C. J. R. No. 1, to provide for payment of freight on arms, have examined the same and find it correctly engrossed.

BROWN.

FORD.

HAYS.

Mr. Cullen reported as follows:

MR. PRESIDENT:—Your Committee of the Judiciary, to whom was referred C. B. No. 11, "An Act to provide for the employment of stenographers in the district court," have instructed me to report the same back to the Council and recommend its passage.

W. E. CULLEN, *Chairman*.

The Committee on Engrossment reported as follows:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 8, "An Act in relation to swine," have examined the same and find the same correctly engrossed.

BROWN.

Mr. Hays gave notice as follows:

MR. PRESIDENT:—I will on to-morrow, or some future day, introduce a bill to prohibit the sale of spirituous liquors on the Sabbath.

HAYS.

Mr. Allebaugh gave notice as follows:

MR. PRESIDENT:—I give notice that I will on to-morrow, or some future day, introduce a bill to amend section 286, chapter 12, criminal practice act, approved January 12th, 1872 (codified statutes, page 234).

ALLEBAUGH.

Mr. Waterbury introduced C. B. No. 12, "An Act for the benefit of common schools;" was read first and second times, and, on motion of Mr. Watson, the rules were suspended, and the bill referred to the Committee on Education.

C. J. R. No. 1, to provide for payment of freight on arms, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, McAdow, Watson, and Mr. President—9.

Nays—Cullen, Mitchell, and Waterbury—3.

Excused—Mr. Tatem.

The title was agreed to.

C. B. No. 8, "An Act in relation to swine," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—11.

Nays—Brown and Constans—2.

The title was agreed to.

The following communication was received, and, on motion of Mr. Brown, was referred to the Committee on Ways and Means:

TERRITORY OF MONTANA,
EXECUTIVE DEPARTMENT,
HELENA, January 19th, 1877. }

To the Legislative Assembly:

I have the honor to submit the report and vouchers of Joseph P. Woolman, Esq., Centennial Commissioner for Montana, showing the expenditure of the centennial appropriation. I respectfully request that the report and vouchers be carefully examined.

The collection of ores exhibited by the territory is now in charge of the Smithsonian Institute, and I have been requested by the

officers of the institute to ask the Legislature to donate the collection to the care and custody of said institute. As the collection would sell for but little if offered for sale, I respectfully recommend that it be donated to the Smithsonian Institute, and thereby give the ores of Montana a place in the national museum.

You are respectfully requested to decide at an early day what disposition shall be made of the collection.

Only one copy of the report and vouchers having been furnished this department, the same is sent to the House of Representatives.

Respectfully,

B. F. POTTS.

The report of the President and Treasurer of the Historical Society, accompanying the last communication, was read and referred, on motion of Mr. Hays, to the Committee on Incorporations.

The following report was received:

MR. PRESIDENT:—Your Committee on Public Lands, to whom was referred C. B. No. 9, "An Act to compel owners of ditches to keep the same in repair," would respectfully report the same back to the Council, with the recommendation that it be amended as follows:

In section 1, line 1, after the word "ditches," insert "or flumes."

In section 2, line 1, after the word "ditch," insert "or flume."

Amend title by inserting after the word "ditches," the words "or flumes."

B. H. TATEM,
W. O. P. HAYS,
R. S. FORD,
Committee.

On motion of Mr. Mitchell, the amendments reported were adopted, and the bill ordered engrossed.

On motion of Mr. Constans, the Council adjourned until the 22d of January, at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

FIFTEENTH DAY.

COUNCIL CHAMBER, }
January 22d, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by the Rev. E. L. Toy, Chaplain.

Journal of thirteenth day read and approved.

The Engrossment Committee reported as follows:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 9, "An Act to compel the owners of ditches or flumes to keep the same in repair," have carefully examined said bill, and find the same correctly engrossed.

BROWN, *Chairman*.

FORD.

Mr. Waterbury reported as follows:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 10, entitled "An Act to increase and render uniform the compensation of grand and trial jurors in the district courts of Montana territory," most respectfully report the same back to the Council, with the recommendation that it be referred to the Judiciary Committee.

WATERBURY, *Chairman*.

The bill reported was referred to the Judiciary Committee.

The Committee on Engrossment reported as follows:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 11, "An Act to provide for the employment of stenographers in the district courts," having examined said bill, find the same properly engrossed.

BROWN, *Chairman*.

FORD.

The following notices of the introduction of bills were given:

MR. PRESIDENT:—I give notice that I will on to-morrow, or some future day, offer a bill for “An Act to authorize the trustees of school district No. 7, in Gallatin county, Montana territory, to issue and sell coupon bonds of said district for school purposes.”

McADOW.

MR. PRESIDENT:—I hereby give notice that I will, on to-morrow or next day, offer a bill to amend section 10 of “An Act concerning notaries public,” approved February 8th, 1876 (session laws, page 115).

McADOW.

MR. PRESIDENT:—I will on to-morrow, or some future day during the present session, introduce a bill for “An Act to amend section 190 of chapter 3 of an act entitled ‘An Act to regulate proceedings in civil cases in the courts of justice of Montana territory,’ approved January 12th, A. D. 1872.

BROWN.

MR. PRESIDENT:—I will on to-morrow, or some subsequent day, introduce a bill entitled “An Act to amend the criminal practice act.”

Also, a bill entitled “An Act relative to mining corporations.”

Also, a bill entitled “An Act concerning apprentices.”

W. E. CULLEN.

Mr. Hays introduced C. B. No. 13, “An Act to prohibit the traffic in intoxicating liquors on Sundays.” Read first and second times, and referred to the Committee on Printing.

Mr. Waterbury introduced C. B. No. 14, “An Act to give the poor man the same rights as the rich man in all courts of justice.” Read first and second times, and referred to the Committee on Printing.

Mr. Lewis introduced C. B. No. 15, “An Act concerning elections.” Read first and second times, and referred to the Committee on Printing.

Mr. McAdow introduced C. B. No. 16, “An Act to authorize the trustees of school district No. 7, in Gallatin county, Montana ter-

ritory, to issue and sell coupon bonds of said district for school purposes." Read first and second times, and, on motion of Mr. Watson, was referred to the Committee on Education.

Mr. Allebaugh introduced C. B. No. 17, a bill to amend section 286, chapter 12, of the criminal practice act, approved January 12th, 1872 (codified statutes, page 234). Read first and second times, and ordered printed.

Mr. Hays introduced C. J. M. No. 1, asking for the establishment of a post route between Helena, Montana, and Deadwood City, Dakota. Read first and second times, and Mr. Ford moved to suspend the rules, consider the memorial engrossed, and read the third time; which motion was lost by the following vote:

Ayes—Ford, Hays, McAdow, Watson, and Mr. President—5.

Nays—Allebaugh, Brown, Constans, Cullen, Lewis, Tatem, and Waterbury—7.

Absent—Mr. Mitchell.

And the memorial was referred to the Committee on Federal Relations.

Mr. Cullen offered C. C. R. No. 4, to authorize the Judiciary Committee to employ a clerk, and moved its adoption; which motion prevailed.

Mr. Brown offered the following:

Resolved, That the President of the Council appoint a special committee, consisting of three members of the Council, whose duty it shall be to report a bill, if in their judgment it is expedient, the object of which shall be the revision and simplification of the laws now in force governing and prescribing the duties of probate courts in this territory, and report their action, by bill or otherwise, as soon as may be convenient.

BROWN.

Mr. Cullen moved its adoption, and the resolution was adopted.

The President appointed on the proposed committee, Messrs. Brown, Watson, and Lewis.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 22d, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices have been given as follows:

By Mr. Howell—A bill for an act entitled “An Act concerning license.”

By Mr. Chadwick—A bill entitled “An Act relative to the territorial law library.”

Also, a bill entitled “An Act to provide for the taxation of a jury fee in civil cases in the courts of the territory.”

By Mr. Davis—A bill authorizing a re-survey of the Helena town site.

By W. F. Sanders—A bill for “An Act with reference to the exhibit of Montana at the national exhibition.”

That bills were introduced:

By Mr. Rotwitt—H. B. No. 14, a bill for “An Act re-apportioning the members of the Legislative Assembly.”

By Mr. Davis—H. B. No. 15, a bill for “An Act regulating the duties of county commissioners.”

That H. B. No. 8, a bill for “An Act for the relief Albert W. Tanner,” was read the third time and lost.

That H. B. No. 3, a bill for “An Act imposing certain duties upon the Governor of the territory,” was read the third time and passed, with the title amended, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 3, “An Act imposing certain duties upon the Governor of Montana,” was read first and second times, and referred to the Committee on Ways and Means.

C. B. No. 9, “An Act to compel the owners of ditches and flumes to keep the same in repair,” was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Excused—Mr. Mitchell.

The title was agreed to.

C. B. No. 11, "An Act to provide for the employment of stenographers in the district court," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nay—Mr. Ford.

The title was agreed to.

Mr. Mitchell introduced C. B. No. 18, "An Act to secure railroad communication to the people of Montana;" was read the first and second times, and ordered printed.

On motion of Mr. Hays, the Council took a recess until 2:30 o'clock P. M.

2:30 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

The following reports were received:

MR. PRESIDENT:—Your Committee on Military Affairs, to whom was referred that portion of the Governor's message relating to the organization of the militia, would respectfully report the accompanying bill to the Council, entitled "An Act to provide for the organization of the militia," as the result of their labors.

B. H. TATEM.

W. E. CULLEN,

E. B. WATERBURY,

Committee.

MR. PRESIDENT:—Your Committee on Education, to whom was referred C. B. No. 16, "An act to authorize the trustees of district number 7, in Gallatin county, Montana territory, to issue and sell coupon bonds of said district for school purposes," would respectfully report the same back to the Council, and recommend its passage.

P. W. McADOW, *Chairman*.

MR. PRESIDENT:—Your Committee on Education, to whom was referred C. B. No. 12, "An Act for the benefit of common schools," would respectfully report it back to the Council, and recommend its passage.

McADOW, *Chairman*.

MR. PRESIDENT:—Your committee to whom was referred H. B. No. 3, entitled a bill for "An Act to facilitate the conviction of robbers," do respectfully report the same back, and recommend it do pass.

WATERBURY.

ALLEBAUGH.

FORD.

The Committee on Military Affairs introduced C. B. No. 19, "An Act to provide for the organization of the militia;" was read the first and second times, and ordered printed.

Mr. McAdow introduced C. B. No. 20, a bill to amend section 10 of "An Act concerning notaries public," approved February 8th, 1876 (session laws 1876, page 115); was read the first and second times, and referred to Judiciary Committee.

Mr. Hays introduced C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county;" was read the first and second times, and ordered printed.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 22d, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices of the introduction of bills were given:

By Mr. Robinson—A bill for the purpose of aiding in the construction of a railroad from Franklin, in Idaho territory, to some point near the mouth of the Big Hole river, Montana territory.

By Mr. Hyde—A bill to amend section 27 of the election law.

By Mr. Batchelder—A bill for "An Act to amend an act to provide for biennial elections in the territory of Montana," approved February 11th, 1876.

That bills were introduced:

By Mr. Chadwick—H. B. No. 16, "An Act relative to the territorial library."

Also, H. B. No. 17, "An Act to provide for the taxation of a jury fee in civil cases in the courts of the territory."

By Mr. Vivion—H. B. No. 18, a bill for "An Act relative to the duties of county commissioners.

By Mr. Howell—H. B. No. 19, "An act to amend an act concerning license," approved May 8th, 1873.

By J. G. Sanders—H. B. No. 20, "An Act to protect the treasuries of the counties, and of the territory of Montana." Ordered printed.

By Mr. Robbins—H. B. No. 21, a bill for "An Act to amend sections 1 and 5 of an act in relation to brands and marks," approved January 10th, 1872 (codified statutes, page 563).

By Mr. Galen—"An Act to encourage the manufacture of woolen fabrics in the territory of Montana."

By Mr. Sanders (of Lewis and Clarke)—H. B. No. 23, a bill for "An Act with reference to the exhibit of Montana at the national exhibition."

By Mr. Howell—H. B. No. 24, "An Act for the relief of F. C. Deimling."

By Mr. Vivion—H. J. M. No. 1, in relation to the restoring of a portion of the Crow reservation to the public domain.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. B. No. 16, "An Act to authorize the trustees of school district No. 7, in Gallatin county, Montana territory, to issue and sell coupon bonds of said district for school purposes," was ordered engrossed.

C. B. No. 12. "An Act for the benefit of common schools," was ordered engrossed.

Mr. Tatem offered the following:

Resolved, That the consideration of any and all bills pertaining to railroad matters be postponed until Thursday, February 1st, 1877.

TATEM.

On motion, the resolution was adopted.

Mr. Brown reported as follows:

MR. PRESIDENT:—Your Committee on Federal Relations, to whom was referred C. J. M. No. 1, having carefully examined the same, beg leave to report the same back to the Council, with the recommendation that the same do pass.

BROWN, *Chairman*.

Ordered engrossed.

Mr. Brown introduced C. B. No. 22, "An Act to amend section 190, chapter 3, of an act entitled 'An Act to regulate proceedings in civil cases in the courts of justice of Montana territory.'" Read first and second times, and referred to the Judiciary Committee.

On motion, the Council adjourned until 10 o'clock A. M., tomorrow.

HARRY R. COMLY, *Chief Clerk*.

SIXTEENTH DAY.

COUNCIL CHAMBER, }
January 23d, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

The Committee on Printing returned C. B. No. 14, "An Act to give the poor man the same rights as the rich man in all courts of justice," to the Council, and it was referred to the Judiciary Committee.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 16, "An Act to authorize the trustees of school district No. 7, in Gallatin county, Montana territory, to issue and sell coupon bonds of said district for school purposes," have carefully examined said bill, and find the same correctly engrossed.

BROWN, *Chairman*.

FORD.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 20, entitled "A bill to amend section 10 of an act concerning notaries public," approved February 8th, 1876, have instructed me to report the same back to the Council, with the recommendation that the same do pass.

W. E. CULLEN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 12, "An Act for the benefit of common schools," have examined the same, and find it correctly engrossed.

BROWN.

FORD.

HAYS.

MR. PRESIDENT:—Your committee to whom was referred C. J. M. No. 1, asking for the establishment of a post route between Helena, Montana territory, and Deadwood City, Dakota, find the same correctly engrossed.

BROWN.

FORD.

HAYS.

The following notices were given:

MR. PRESIDENT:—I hereby give notice that I will on to-morrow, or some future day, introduce a bill to increase the boundaries of Gallatin county.

McADOW.

MR. PRESIDENT:—I will on to-morrow, or some subsequent day, introduce a bill for an act entitled "An Act to amend chapter 40 of the codified statutes."

CULLEN.

MR. PRESIDENT:—I give notice that I will on to-morrow, or some future day, introduce a bill for an act entitled "An Act in relation to the competency of witnesses."

R. S. FORD.

H. B. No. 3, a bill for "An Act imposing certain duties upon the Governor of the territory," was read the third time, and lost by the following vote:

Ayes—Allebaugh, Cullen, Mitchell, and Mr. President—4.

Nays—Brown, Constans, Ford, Hays, Lewis, McAdow, Waterbury, Tatem, and Watson—9.

Mr. Watson gave notice that he would move to reconsider the vote by which the bill was lost.

C. J. M. No. 1, asking for the establishment of a post route between Helena, Montana territory, and Deadwood City, Dakota, was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. B. No. 12, "An Act for the benefit of common schools," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Hays, Lewis, Mitchell, McAdow, Waterbury, and Mr. President—7.

Nays—Brown, Constans, Cullen, Ford, Tatem, and Watson—6.

Title agreed to.

C. B. No. 16, "An Act to authorize the trustees of school district No. 7, in Gallatin county, Montana territory, to issue and sell coupon bonds of said district for school purposes," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

On motion of Mr. Hays, the rules were suspended, C. B. No. 20, a bill to amend section 10 of "An Act concerning notaries public," approved February 8th, 1876 (session laws 1876, page 115), was considered engrossed, read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

On motion of Mr. Cullen, the title was amended so as to read, "An Act to amend section 10 of an act concerning notaries public."

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 23d, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that C. J. R. No. 1 has passed the House, with amendments, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Hays moved to concur in House amendments to C. J. R. No. 1, to provide for payment of freight on arms; which motion prevailed, and the resolution was ordered enrolled.

Mr. Mitchell moved to reconsider the vote adopting the resolution postponing action on railroad bills until February 1st; which motion prevailed.

Mr. Tatem offered the following concurrent resolution:

Resolved by the Council (the House concurring), That the consideration of any and all bills pertaining to railroad matters be postponed until Monday, January 29th, 1877.

Which, on motion, was adopted.

Mr. Brown introduced C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876. Read first and second times, and, on motion of Mr. Mitchell, referred to the Committee of the Whole, and made the special order for 2:30 P. M. to-morrow.

The following report was received:

MR. PRESIDENT:—Your Committee on Judiciary have had C. B. No. 10 under consideration, the same being "An Act to increase and render uniform the compensation of grand and trial jurors in the district courts in the territory of Montana," and after duly considering the same, beg leave to report it back to the Council, and recommend that the same be considered in Committee of the Whole Council.

CULLEN.

BROWN.

Report adopted, and made the special order for 3 P. M.

On motion of Mr. Mitchell, the Council took a recess until 2:30 o'clock P. M.

2:30 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

The Committee on Printing reported as follows:

MR. PRESIDENT:—The Committee on Printing, to whom was referred the rules of the Council, and joint rules of the two Houses, beg leave to report the same back to the Council correctly printed, with the following exceptions: Council rule 22, in line 5, "comi-ter" should read "committee." Joint rule No. 9, line 3, the letter "s" is inserted in lieu of the letter "a" after the word "appoint." Rule 17, in line 6, the word "house" is omitted.

Respectfully submitted,

THOMAS WATSON, *Chairman.*

Mr. Cullen introduced C. B. No. 24, "An Act relative to mining corporations." Read first and second times and, on motion of Mr. Watson, was referred to the Committee on Mines and Minerals.

Mr. Cullen introduced C. B. No. 25, "An Act to amend the criminal practice act." Read first and second times, and referred to the Judiciary Committee.

Mr. Cullen introduced C. B. No. 26, "An Act concerning apprentices." Read first and second times, and ordered printed.

Mr. Ford introduced C. B. No. 27, "An Act in relation to the competency of witnesses." Read first and second times, and, on motion of Mr. Brown, referred to the Committee on Judiciary.

Mr. Brown gave the following notice:

MR. PRESIDENT:—I will on to-morrow, or some future day during the present session, introduce a bill for an act entitled "An Act to prohibit minors, or persons under twenty-one years of age, from gambling or betting at or upon any game of chance, within the territory of Montana."

BROWN.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 23d, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices were given as follows:

By Mr. Chadwick—A bill concerning the fees of county treasurers.

By Mr. Steell—"An Act to create the county of Dearborn."

By W. F. Sanders—A bill for "An Act to amend the Helena incorporation act."

That bills were introduced:

By Mr. Brainard—H. B. No. 25, "An Act to consolidate the offices of Meagher county."

By Mr. Batchelder—H. B. No. 26, "An Act to amend an act providing for biennial elections in the territory of Montana."

By Mr. Porter—H. B. No. 27, "An Act to amend section 138 of an act entitled 'An Act to regulate proceedings in civil cases in the courts of justice in the territory of Montana,'" approved February 13th, 1874.

By Mr. Hyde—H. B. No. 28, "An Act to amend section 27 of an act to provide for biennial elections in the territory of Montana."

That the House has concurred in C. C. R. No. 4.

Respectfully,

A. H. BARRET, *Chief Clerk.*

The Council went into Committee of the Whole to consider the general orders.

Council resumed—Mr. President in the chair.

On motion of Mr. Cullen, the Council adjourned.

HARRY R. COMLY, *Chief Clerk.*

SEVENTEENTH DAY.

COUNCIL CHAMBER, }
January 24th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

Mr. Brown introduced C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein." Read first and second times; and, on motion of Mr. Mitchell, was referred to the Committee of the Whole.

Mr. Cullen introduced C. B. No. 29, "An Act in relation to married women." Read first and second times, and referred to the Printing Committee.

Mr. McAdow introduced C. B. No. 30, "An Act to provide against accidents in case of fire." Read first and second times, and, on motion of Mr. Mitchell, was referred to the Committee of the Whole.

Mr. Hays introduced C. B. No. 31, "An Act to amend section 261 of chapter 1 of the civil practice act of the territory of Montana." Read first and second times, and, on motion of Mr. Brown, was referred to the Committee on Judiciary.

Mr. Watson moved to reconsider the vote by which H. B. No. 3, "An Act imposing certain duties upon the Governor of the territory," was lost, and refer it to a special committee of three. The motion prevailed, and the bill was referred to a committee consisting of Messrs. Watson, Hays, and Allebaugh.

The following report was received :

MR. PRESIDENT:—The Committee of the Whole, to whom was referred C. B. No. 10, "An Act to increase and render uniform the compensation of grand and trial jurors in the district courts in the territory of Montana," while having the same under consideration, instructed me to report the bill back to the Council, with the recommendation that it be referred to a special committee, consisting of the members from Deer Lodge county.

I. I. LEWIS, *Chairman.*

On motion of Mr. Waterbury, the report was received and adopted.

Mr. Waterbury introduced C. J. M. No. 2; which was read the first and second times, and, on motion of Mr. Tatem, was referred to the Committee on Federal Relations, with a request to report this afternoon.

On motion of Mr. Brown, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—The time having arrived to which the Council adjourned, on motion of Mr. Tatem, Mr. Mitchell took the chair.

A call of the Council was ordered.

Roll called—absent, Mr. President.

Mr. President appeared and took the chair.

The following report was received :

MR. PRESIDENT:—Your Committee on Federal Relations, to whom was referred C. J. M. No. 2, would respectfully report the same back to the Council, with a recommendation that it do

ASA A. BROWN,

B. H. TATEM,

THOS. WATSON,

Committee.

Mr. Waterbury moved that the rules be suspended, the memorial be considered engrossed and read a third time; which motion prevailed, and C. J. M. No. 2 was read the third time and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Mitchell, Tatem, Waterbury, Watson, and Mr. President—9.

Nays—Cullen, Hays, Lewis, and McAdow—4.

The following reports were received:

MR. PRESIDENT:—Your Committee of the Judiciary, to whom was referred C. B. No. 22, "An Act to amend section 190 of chapter 3 of an act entitled 'An Act to regulate proceedings in civil cases in the courts of justice of Montana territory,'" approved January 12th, 1872, have duly considered the same, and recommend its passage.

CULLEN, *Chairman*.

BROWN.

The bill reported was ordered engrossed.

MR. PRESIDENT:—Your Committee of the Judiciary, to whom was referred C. B. No. 27, "An Act in relation to the competency of witnesses," have instructed me to report the same back to the Council, and recommend its passage with the following amendment, to-wit: On the eighth and ninth lines, strike out the words "or divorce and alimony."

W. E. CULLEN, *Chairman*.

On motion, the amendments were adopted, and the bill ordered engrossed.

MR. PRESIDENT:—Your Committee of the Judiciary, to whom was referred C. B. No. 14, "An Act to give the poor man the same rights as the rich man in all courts of justice," have instructed me to report the same back to the Council, with the recommendation that the same pass.

CULLEN, *Chairman*.

Bill reported was ordered engrossed.

The following report was received:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 13, "An Act to prohibit the sale and traffic in intoxicating liquors on Sundays," beg leave to report the same back to the Council as correctly printed. WATSON, *Chairman*.

C. B. No. 13, "An Act to prohibit the sale and traffic in intoxicating liquors on Sundays," was referred to the Committee on Education and Labor.

2:30 P. M.—The Council went into Committee of the Whole to consider the special order.

Council resumed—Mr. President in the chair.

On motion of Mr. Mitchell, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk*.

EIGHTEENTH DAY.

COUNCIL CHAMBER, }
January 25th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 27, "An Act in relation to the competency of witnesses," have examined the same, and find the same correctly engrossed. BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 14, "An Act to give the poor man the same rights as the rich man in all courts of justice," have examined the same and find the same correctly engrossed.

BROWN, *Chairman*.

Mr. McAdow introduced C. B. No. 32, "An Act for the government of unorganized counties;" was read the first and second times, and ordered printed.

Mr. Cullen introduced C. B. No. 33, "An Act concerning divorce;" was read the first and second times, and ordered printed.

The following report was received:

MR. PRESIDENT:—Your Committee on Mines and Minerals, to whom was referred C. B. No. 24, entitled "An Act relative to mining corporations," respectfully report the same back to the Council, recommending that the bill do not pass.

LEWIS.

WATERBURY.

TATEM.

On motion of Mr. Tatem, the bill reported was ordered printed.

The Engrossment Committee reported as follows:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 22, "An Act to amend section 190 of chapter 3 of an act entitled 'An Act to regulate proceedings in civil cases in the courts of justice of Montana territory,'" approved January 12th, A. D. 1872, would respectfully report said bill correctly engrossed.

BROWN.

FORD.

HAYS.

Mr. Watson reported:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 3, "An Act to provide a system of common schools," beg leave to report the same back to the Council as correctly printed.

WATSON.

The bill was referred to the Committee of the Whole.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
January 24th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices were given as follows:

By Mr. Chadwick—A joint memorial to the Congress of the United States for a grant of land for the maintenance of an insane hospital in the territory of Montana.

Also, a bill to pay for certain territorial printing performed by Kerley, McQuaid, & Lacroix.

By Mr. Kessler—A bill relative to paying certain expenses of W. F. Wheeler, United States Marshal, incurred in canvassing the vote for delegate in Congress.

That Mr. Chadwick introduced H. J. M. No. 2, to establish a branch mint at Helena, Montana territory.

That the following bills have passed the House:

H. B. No. 2, "An Act to pay for the support and maintenance of the insane."

H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge."

H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,'" approved May 6th, 1873.

C. B. No. 4, a bill to provide for the appointment of commissioners of deeds, with amendments.

C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor."

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Cullen, the Council concurred in House amendments to C. B. No. 4, a bill to provide for the appointment of commissioners of deeds; and it was ordered enrolled.

C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," was ordered enrolled.

H. B. No. 2, "An Act to pay for the support and maintenance of the insane," was read first and second times, and referred to the Committee on Ways and Means.

H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,'" approved May 6th, 1873, was read the first and second times, and referred to the Judiciary Committee.

H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of territorial convicts in the United States penitentiary at Deer Lodge," was read the first and second times, and referred to the Committee on Federal Relations.

C. B. No. 14, "An Act to give the poor man the same rights as the rich man in all courts of justice," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Cullen, Ford, Hays, Lewis, Waterbury, Watson, and Mr. President—9.

Nays—Constans, McAdow, and Tatem—3.

Absent—Mr. Mitchell.

Mr. Tatem offered the following amendment to the title: Amend so as to read, "An Act to burden the courts of justice in Montana territory, and for the benefit of the legal fraternity," and moved its adoption; which motion was lost.

Mr. Watson offered the following amendment to the title; which was adopted: Amend the title so as to read, "An Act to repeal sections 562 and 563 of the civil practice act, and the amendment to section 563," approved April 29th, 1874.

C. B. No. 22, "An Act to amend section 190 of chapter 3 of an act entitled 'An Act to regulate proceedings in civil cases in the courts of justice of Montana territory,'" approved January 12th,

A. D. 1872, was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Mitchell.

Title agreed to.

C. B. No. 27, "An Act in relation to the competency of witnesses," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, McAdow, Waterbury, Watson, and Mr. President—9.

Nays—Lewis and Tatem—2.

Absent—Cullen and Mitchell.

Mr. Waterbury gave notice of a motion to reconsider.

On motion of Mr. McAdow, the Council took a recess until 2 o'clock P. M.

Council resumed—Mr. President in the chair.

Roll called—quorum present.

The following reports were received:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 15, "An Act concerning elections," beg leave to report the same back to the Council correctly printed. Also, C. B. No. 17, "An Act concerning challenges of jurors," correctly printed.

WATSON, *Chairman*.

MR. PRESIDENT:—The Committee of the Whole have considered C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876, and respectfully report it back, and recommend its passage.

Also, C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," and recommend that it pass, with the following amendments:

Amend section 2—In 7th line, after the word "cards," insert "or dice, or other implements of gaming." In 4th line, section 2, insert after "hereafter," the word "knowingly."

Also, C. B. No. 30, "An Act to provide against accidents in case of fire," and recommend that it pass, with the following amendment:

Amend section 3, line 11—Erase the words "may be closed in the discretion of the court," and insert in lieu thereof the words, "shall be closed by the court."

Respectfully,
WATSON, *Chairman.*

C. B. No. 15, "An Act concerning elections," was referred to the Committee on Elections.

C. B. No. 17, "An Act concerning challenges of jurors," was referred to the Judiciary Committee.

C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876, was ordered engrossed.

On motion, the following was adopted as an amendment to C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," to-wit:

Amend section 2—In 7th line, after word "cards," insert "or dice, or other implements of gaming."

As amended, the bill was ordered engrossed.

On motion, the following was adopted as an amendment to C. B. No. 30, "An Act to provide against accidents in case of fire," to-wit:

Amend section 3, line 11—Erase the words "may be closed in the discretion of the court," and insert in lieu thereof the words, "shall be closed by the court."

As amended, the bill was ordered engrossed.

The Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

The following report was received:

MR. PRESIDENT:—Your select committee to whom was referred H. B. No. 3, "An Act to facilitate the conviction of robbers," beg leave to report the same back to the Council, with amendments attached.

WATSON.

ALLEBAUGH.

Mr. Watson moved to adopt the amendments reported.

On motion of Mr. Mitchell, the bill, report, and amendments were referred to the Committee of the Whole.

The following report was received:

MR. PRESIDENT:—Your special committee, composed of the members of Deer Lodge county, to whom was referred C. B. No. 10, "An Act to increase and render uniform the compensation of grand and trial jurors in the district courts in the territory of Montana," having had the same under consideration, and after duly considering the same, beg leave to report the accompanying bill as the result of their deliberation.

BROWN.

WATERBURY.

MITCHLL.

C. B. No. 34, "An Act to increase the compensation of grand and trial jurors in the district court in the county of Deer Lodge, in the territory of Montana," reported by the select committee of the members of Deer Lodge county, was read first and second times, and ordered engrossed for third reading.

The Council went into Committee of the Whole on H. B. No. 3.

Council resumed—Mr. President in the chair.

Mr. Waterbury reported as follows:

MR. PRESIDENT:—The Committee of the Whole would respectfully report H. B. No. 3 back to the Council, with accompanying amendments, and recommend it for the further action of the Council: In section 1, strike out the words “shall” and “standing,” in line 1, and insert “may in his discretion.” Also, insert for section 2: “*Provided*, That the provisions of this act shall apply to the robbing of any public house or private residence, or any private citizen while traveling on foot or on horseback, or otherwise.”

Also, re-number the sections.

WATERBURY, *Chairman*.

Mr. Hays moved that the bill and amendments be laid on the table until the 4th of July, 1991.

Mr Cullen moved to amend by simply laying it on the table. Carried.

On motion of Mr. Mitchell, the Council adjourned.

HARRY R. COMLY, *Chief Clerk*.

NINETEENTH DAY.

COUNCIL CHAMBER, }
January 26th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Journal of yesterday read and approved.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 23, “An Act to amend section 4 of an act to protect fur-bearing animals and fish in the territory of Montana,” approved February 5th, 1876; also, C. B. No. 30, “An Act to pro-

vide against accidents in case of fire;" also, C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," have examined the said bills, and find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Elections, to whom was referred C. B. No. 15, entitled "An Act concerning elections," beg leave to report the same back to the Council, recommending the following amendments thereto (referring to printed copy):

After the words "section 27," strike out the words "after the fifteenth day," and insert the following: "on the first day of December next;" after the words "chairman of the board of county commissioners" (first appearing in the bill), insert the words "or, in his absence, any other member of the board;" and, after the words "shall, taking to his assistance the probate judge," strike out the word "and," and insert the word "or;" after the words "justice of the peace," in the same line, insert the words "or any other officer."

Thus amended, we respectfully recommend that the bill do pass.

ALLEBAUGH, *Chairman*.

On motion of Mr. Lewis, the amendments reported were adopted, and the bill ordered engrossed.

MR. PRESIDENT:—Your Committee on Enrollment have examined the following: C. J. R. No. 1, to provide for the payment of freight on arms;" C. B. No. 4, a bill to provide for the appointment of commissioners of deeds;" and C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor," and find the several bills correctly enrolled.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your committee to whom was referred H. B. No. 2, "An Act to pay for the support and maintenance of the insane," have had the same under consideration, and would respectfully report the same back, without amendment, and recommend that the same do pass.

WATERBURY.

FORD.

ALLEBAUGH.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 34, "An Act to increase the compensation of grand and trial jurors in the district court in the county of Deer Lodge, in the territory of Montana," having carefully examined the said bill, find that the same is correctly engrossed.

BROWN, *Chairman*.

The following report was received:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 18, "An Act to secure railroad communication to the people of Montana territory," beg leave to report the same back to the Council correctly printed.

WATSON, *Chairman*.

The following notice was given:

MR. PRESIDENT:—I will on to-morrow, or some future day during the present session, introduce a bill for "An Act to protect certain property from double taxation, in the territory of Montana."

BROWN.

Mr. Cullen introduced C. B. No. 35, "An Act to amend chapter 40 of the codified statutes;" was read first and second times, and referred to the Judiciary Committee.

Mr. Lewis introduced C. J. M. No. 3, asking for the privilege of electing territorial officers, etc.; was read first and second times, and ordered printed.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 25th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices of the introduction of bills have been given:

By Mr. Vivion—A bill for "An Act to encourage the construction of a railroad from Deadwood City, Dakota territory, to the city of Bozeman, in the territory of Montana."

By Mr. Thompson—A bill to amend section 218 of "An Act relating to administrators and executors."

By J. G. Sanders—"An Act to authorize the several counties of the territory to change their county seats, on certain conditions."

By Mr. Hickman—A bill for "An Act to prevent stallions over the age of one year from running at large."

That bills were introduced:

By Mr. Chadwick—H. B. No. 29, "An Act to regulate and establish the fees of county treasurers."

Also, H. B. No. 30, "An Act to compensate J. C. Kerley, Hugh McQuaid, and L. F. Lacroix, for services rendered the territory for printing."

By Mr. Robinson—H. B. No. 31, "An Act to aid in the construction of a railroad to Montana."

By Mr. Porter—H. B. No. 32, "An Act to amend an act to regulate proceedings in civil cases in the courts of justice in the territory of Montana, in relation to attachments, and to repeal section 146 of said act."

That Mr. Chadwick introduced H. J. M. No. 3, praying for a grant of land to aid in constructing a territorial insane hospital.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Watson, the Council took a recess for fifteen minutes.

Council resumed—Mr. President in the chair.

Roll called—quorum present.

Mr. President announced that he was about to sign C. J. M. No. 1; also, C. B. No. 4, a bill to provide for the appointment of commissioners of deeds; also, C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor."

On motion of Mr. Mitchell, C. B. No. 18, "An Act to secure railroad communication to the people of Montana," was referred to the Committee of the Whole.

Mr. Allebaugh introduced C. J. M. No. 4, in relation to certain territorial officers; was read the first and second times, and referred to the Committee on Federal Relations.

H. B. No. 2, "An Act to pay for the support and maintenance of insane," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876, was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Mr. President—10.

Nays—Cullen, Ford, and Watson—3.

Title amended by inserting the word "game" before the word "fur."

C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

C. B. No. 30, "An Act to provide against accidents in case of fire," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12. :

Nay—Cullen.

Title agreed to.

C. B. No. 34, "An Act to increase the compensation of grand and trial jurors in the district court in the county of Deer Lodge, in the territory of Montana," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Cullen.

Title agreed to.

Mr. Ford gave notice as follows :

MR. PRESIDENT:—I will on to-morrow, or some future day, introduce a bill to reduce the fees of district clerks and other officers.

FORD.

The following report was made:

MR. PRESIDENT:—Your Committee on Enrollment respectfully report that the following Council Joint Resolution and Council Bills were presented to the Governor for his action thereon, at 11:20 A. M., January 26th, 1877, to-wit: C. J. R. No. 1, to provide for the payment of freight on arms;" C. B. No. 4, a bill to provide for appointment of commissioners of deeds; C. B. No. 7, "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor."

I. I. LEWIS.

On motion of Mr. Tatem, the Council went into Committee of the Whole.

Council resumed—Mr. President in the chair.

On motion of Mr. Cullen, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 26th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices have been given as follows:

By Mr. W. F. Sanders—A bill for "An Act to protect creditors."

By Mr. Witter—A bill amending section 25 of the election laws, approved February 11th, 1876.

Also, a bill amending section 147 of the criminal laws, approved January 12th, 1872 (codified statutes, page 303).

By Mr. Thompson—A bill for "An Act defining the boundaries of Chouteau county."

By Mr. Witter—A joint memorial asking Congress to assist this territory in the maintenance of our free schools.

That bills were introduced:

By W. F. Sanders—H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory."

Also, H. B. No. 34, a bill for "An Act to amend the Helena incorporation act."

By Mr. Kessler—H. B. No. 35, "An Act for the relief of W. F. Wheeler."

By Mr. Thompson—H. B. No. 36, "An Act to amend section 218 of an act relating to executors and administrators."

That H. B. No. 15, a bill for "An Act regulating the duties of county commissioners," was the third time and lost.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Mitchell, the Council went into executive session.

Council resumed—doors opened, and the Clerk was directed to make a minute on the journal that the following persons, nominated by the Governor for notaries public, were confirmed by the Council in executive session, to-wit:

Massena Bullard, of Lewis and Clarke county.

Joseph P. Fenlon, of Big Horn county.

Edward B. Bonnell, of Lewis and Clarke county.

On motion of Mr. Brown, the President appointed Messrs. Brown, Allebaugh, and Cullen a committee on mileage.

On motion of Mr. Brown, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk.*

TWENTIETH DAY.

COUNCIL CHAMBER, }
January 27th, 1877. }

Council met pursuant to adjournment—Mr. President in the chair.

Roll called—absent, Mr. Tatem; who, on motion of Mr. Mitchell, was excused from attendance for the day.

Prayer by Rev. David Morton, Chaplain.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 15, "An Act concerning elections," have carefully examined the said bill, and find the same correctly engrossed.

ASA BROWN, *Chairman.*

MR. PRESIDENT:—Your Committee of the Whole, to whom was referred C. B. No. 3, entitled “An Act to provide a system of common schools,” have instructed me to report progress, and ask leave to sit again.

CULLEN, *Chairman*.

C. B. No. 15, “An Act concerning elections,” was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Watson, and Mr. President—10.

Nays—None.

Excused—Mr. Waterbury.

Absent—Ford and Tatem.

The title was agreed to.

The Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

On motion of Mr. Mitchell, as a token of respect to the memory of Maj. J. F. Forbis, a former member of the Legislative Assembly, who is lately deceased, the Council adjourned until 10 o'clock A. M., January 29th, 1877.

HARRY R. COMLY, *Chief Clerk*.

TWENTY-SECOND DAY.

COUNCIL CHAMBER, }
January 29th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Journal of the twentieth day read and approved.

The following report was received:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 19, "An Act to provide for the organization of the militia," beg leave to report the same back to the Council correctly printed; also, C. J. M. No. 3, returned not printed.

Respectfully submitted,

WATSON.

C. B. No. 19, "An Act to provide for the organization of the militia," was referred to the Committee on Military Affairs.

On motion of Mr. Mitchell, C. J. M. No. 3 was referred to the Committee on Federal Relations.

MR. PRESIDENT:—Your Committee on Judiciary have instructed me to report the following amendments to C. B. No. 35, "An Act to amend chapter 40 of the codified statutes, to-wit:

In section 2, strike out "thirty" wherever it occurs in said section, and insert "sixty."

Add the following as section 3:

"Section 3. The liens for work or labor done, or material furnished, as specified in the act to which this is amendatory, shall be prior to, and have precedence over, any mortgage, incumbrance, or other lien made subsequent to the commencement of work on any contract for the erection of such building, or other improvement."

Add the following as section 4:

"Section 4. Section 8 of chapter 40 of the codified statutes, and all acts and parts of acts in conflict with this act, are hereby repealed."

Number "Section 3" of the bill, "Section 5."

With these amendments, your committee recommend the passage of the bill.

W. E. CULLEN, *Chairman*.

The amendments reported were adopted, and the bill ordered engrossed.

The following report was received:

MR. PRESIDENT:—Your Committee of the Whole, to whom was referred C. B. No. 3, "An Act to provide a system of common schools," have instructed me to report progress, and ask leave to sit again.

CULLEN, *Chairman*.

Mr. McAdow introduced C. B. No. 36, "An Act to preserve the finances of Montana territory." Read first time, and Mr. Mitchell objected, and the bill was rejected by the following vote:

Ayes—Allebaugh, Brown, Constans, Hays, Mitchell, Waterbury, and Watson—7.

Nays—Cullen, Ford, Lewis, McAdow, and Mr. President—5.

Absent—Mr. Tatem.

Mr. Mitchell offered the following:

Resolved, That the Secretary of Montana be requested to inform the Council as to his authority to pay the members and officers of the Council when such members or officers may be absent on leave; and as to the duties of the President and Chief Clerk in making up and certifying the pay-roll.

MITCHELL.

On motion of Mr. Mitchell, the resolution was adopted.

The following report was received:

MR. PRESIDENT:—Your Committee on Federal Relations, to whom was referred Council joint memorial in relation to certain territorial officers, have carefully examined said memorial, and beg leave to report the same back to the Council, with the recommendation that the same do pass.

BROWN, *Chairman*.

The memorial reported was ordered engrossed.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 27th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices for the introduction of bills were given as follows:

By Mr. Kessler—"An Act to amend an act to provide for the redemption of the funded debt of Lewis and Clarke county," approved February 5th, 1876.

By Mr. Robinson—"An Act to amend an act concerning license."

That bills were introduced:

By W. F. Sanders—H. B. No. 37, "An Act to protect creditors."

By Mr. Hickman—H. B. No. 38, "An Act concerning stallions."

By Mr. Witter—H. B. No. 39, "An Act to amend section 147 of the criminal laws," approved January 12th, 1872 (codified statutes).

By Mr. Thompson—H. B. No. 40, "An Act defining the boundaries of Chouteau county."

That Mr. Witter introduced H. J. M. No. 4, a joint memorial asking Congress to aid in the maintenance of the free schools of the territory.

Respectfully,

A. H. BARRET, *Chief Clerk.*

The following telegram was read, ordered spread on the minutes, and transmitted to the House:

NEW YORK, Jan. 27th, 1877.

To the President of the Council and Speaker of the House of Representatives:

We hear that a bill is before you to grant a subsidy of five thousand dollars per mile for a standard gauge road from the head of navigation on the Yellowstone three hundred miles westward. Should it pass in reasonably practicable form, the Northern Pacific will do all in its power towards the immediate construction of that section of the road.

GEORGE STARK,

Vice President.

The Council went into Committee of the Whole to consider the general orders.

Council resumed—Mr. President in the chair.

On motion of Mr. Waterbury, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M. — Council resumed—Mr. President in the chair.

Roll called—quorum present.

On motion of Mr. Mitchell, C. B. No. 18, "An Act to secure railroad communication to the people of Montana," was made the special order for 10:30 A. M. to-morrow, in Committee of the Whole.

Mr. Watson reported as follows:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 21, "An Act to aid in the construction of a railroad from the head of navigation on the Yellowstone river to the eastern boundary of Deer Lodge county," beg leave to report the same back to the Council, correctly printed.

WATSON.

The bill reported was referred to the Committee of the Whole.

The following report was received:

MR. PRESIDENT:—Your Committee of the Whole, to whom was referred C. B. No. 3, "An Act to provide a system of common schools," have instructed me to report it back to the Council, with the following amendments (referring to printed copy):

In line 2 of section 3, after the words "for the," strike out the word "purpose," and insert the words "position of teachers." Here add new section, which see. Strike out the whole of section 3, and insert the following in lieu thereof as section 3:

"Section 3. Each member of the territorial board of education shall have power, and it shall be his duty, to visit all the public schools in his district, at least once in each year; to enforce the course of study and use of the prescribed text books adopted by the territorial board of education; and, after giving due notice of time and place, to hold quarterly examination meetings in his district, for the purpose of examining all applicants for teachers' certificates in the different studies required by the territorial board of education to be taught in the common schools of the territory, and if such examination be satisfactory, to issue to each applicant a certificate of his or her standing in each study, provided that third grade certificates

shall be in force for one year only, second grade certificates shall be in force for two years, and first grade certificates shall be in force three years. He shall keep a record of all certificates granted by him, giving the name of the applicant, and the date and grade of the certificate; shall keep a record of all his official acts; shall attend all the meetings of the territorial board of education, and participate in the exercises thereof; shall furnish at such meetings all reports, statistics, and information pertaining to school matters in his district, that may be required by the board of education. He shall have power, for sufficient cause, to revoke any certificate issued by himself or his predecessor in office. He shall promptly distribute all blanks, registers, and necessary papers, to teachers' and district school officers. He shall carefully preserve all teachers and district school officers' reports, laws, and other papers pertaining to school matters in his district, and all other papers required to be kept in his office. He shall, at the expiration of his office, deliver to his successor all books, papers, blanks, maps, records, furniture, and materials of whatever nature, belonging to his office."

Add to section 3: "*Provided*, that this section shall not apply to schools of less than twenty scholars."

In the first line of section 4, strike out the words "the first day," and insert "Tuesday, three weeks prior to the assembling." In second line, after the word "continue," insert "so long as it may be necessary to dispose of the business before them."

In section 7, strike out the word "secretary" wherever it occurs, and insert the word "auditor" in lieu thereof.

In section 9, make the same amendment.

Amend section 11 so as to read, "the Governor of the territory shall fill any vacancy upon the board of education, until the next general election, by appointment from the vacant districts."

Amend section 12 as follows, to-wit: Strike out all between the words "hands" in the fourth line, and "to notify" in seventh line. In line 10, after the word "by," insert "a majority of the board of trustees, or by the chairman of that board and." In line 13, after the word "education," insert "for the district to which his county belongs, under the provisions of this act." Insert at end of section

12: "*Provided*, that any money now due any school district, as provided by existing laws, shall remain in the county treasurer's hands, and be expended as provided by law for said district." Renum-ber the sub-divisions of the section after the first, so as to make the same correct.

Amend section 13 by striking out all before the words "to ap-point," in the first line, and insert the following words: "The mem-ber of the board of education shall have power, and it shall be his duty."

In section 17, line 5 of printed bill, make "members" read "member."

Amend section 19, line 5, by striking out from the word "but" to the end, inclusive of the word "notice."

In section 20, line 7, strike out "ten" and insert "twenty."

Amend section 24 by adding thereto the following words: "*Pro-vided*, that after said territorial board of education may have adopted certain text books for the use of schools, no change shall be made in said text books for the space of two years."

Amend section 25, in the first line, by striking out the word "twentieth," and insert the word "fifth;" in line 2 strike out the word "tenth," and insert the word "first" in lieu thereof; in line 10 strike out the word "fifteenth," and insert in lieu thereof the word "fifth."

In section 25 strike out the words "tax payers" and insert "an exact," in line 2.

Amend section 30, line 4, by inserting before the word "man-ners" the word "good."

Section 35, line 3, after the word "furnished" insert the word "to."

In section 35, line 4, after "required," insert "by the territorial board of education, in pursuance of law."

Section 37. Insert the word "two" between the words "twenty" and "days," in line 2; strike out the words "or four," in line 2, and insert in lieu thereof the word "in."

Section 38. Strike out, in line 2, "on the way to and from school."

Section 41. Amend line 2 by striking out the words "three" and "five," and insert the words "four" and "six" in lieu thereof."

Section 44. In line 15, after "day," add "or twenty-five dollars in the aggregate." Add to section 44: "*Provided*, that fully one-half of all the tax-payers in any district, where an additional tax is to be levied for school purposes, vote thereon."

Section 46. Amend section 46 by striking out all after the word "children," and insert as follows: "whose parents are subject to taxation; shall be included in the apportionment list."

Add to section 47: "*Provided*, that this section shall not apply to districts of less than twenty scholars."

After the word "fail," line 1, section 55, insert the words "without sufficient cause."

And with these amendments, your committee respectfully recommend the passage of the bill.

CULLEN, *Chairman*.

The amendments reported were adopted, and the bill, as amended, ordered engrossed.

Mr. Lewis reported:

MR. PRESIDENT:—Your Committee on Enrollment, to whom was referred H. B. No. 2, "An Act to pay for the support and maintenance of the insane," have examined the same, and report it correctly enrolled.

I. I. LEWIS.

Mr. President announced that he was about to sign H. B. No. 2, "An Act to pay for the support and maintenance of the insane."

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 29th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that H. B. No. 4 (as amended), "An Act to facilitate the construction of the Helena and Fort Benton Railroad," has passed the House;

That H. B. No. 13, "An Act to amend section 31 of an act to

provide for biennial elections in the territory of Montana," has passed the House;

That H. B. No. 21 (as amended), a bill for "An act to amend an act in relation to brands and marks," has passed the House;

That C. B. No. 9, "An Act to compel owners of ditches or flumes to keep the same in repair," has passed the House;

That C. B. No. 11, "An Act to provide for the employment of stenographers in the district court," has passed the House;

And are herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. B. No. 11, "An Act to provide for the employment of stenographers in the district court," and also C. B. No. 9, "An Act to compel the owners of ditches and flumes to keep the same in repair," were ordered enrolled.

H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad," was read the first and second times, and Mr. Allebaugh moved to refer to the Committee on Federal Relations.

Mr. Tatem moved to amend by referring it to a special committee, consisting of one from each county.

Mr. Allebaugh accepted the amendment, and the motion prevailed; and the chair appointed Messrs. Tatem, Brown, Hays, Lewis, Waterbury, Watson, Ford, and Allebaugh as such committee.

H. B. No. 13, "An Act to amend section 31 of an act to provide for biennial elections in the territory of Montana," was read the first and second times, and, on motion, referred to the Committee on Elections.

H. B. No. 21, a bill for "An Act to amend an act in relation to brands and marks," was read first and second times, and, on motion of Mr. Brown, was referred to the Committee on Agriculture and Manufactures.

Mr. Lewis reported as follows :

MR. PRESIDENT:—Your Committee on Enrollment respectfully report that H. B. No. 2, "An Act to pay for the support and maintenance of the insane," was presented to the Governor for his action at 2:45 P. M., January 29th, 1877.

I. I. LEWIS, *Chairman*.

The following communication was received :

MONTANA TERRITORY,
EXECUTIVE DEPARTMENT, }
HELENA, January 29th, 1877.

To the Council:

I have the honor to inform the Council that on the 26th day of January, 1877, I approved C. B. No. 4, entitled "An Act to provide for the appointment of commissioners of deeds;" also, on same day, I approved C. B. No. 7, entitled "An Act supplemental to an act to provide for the support, care, and maintenance of the county sick and poor;" also, on same day, I approved C. J. R. No. 1, to provide for the payment of the freight on five hundred breech-loading Springfield rifle-muskets, and twenty-five thousand centre-primed metallic cartridges.

Respectfully,

B. F. POTTS.

Mr. Cullen introduced C. B. No. 37, "An Act to establish the office of commissioner of mines;" was read first time, and Brown objected. The motion to reject was lost, and the bill was read the second time, and referred to the Committee on Mines and Minerals.

On motion of Mr. Cullen, the Council adjourned until 10 o'clock A. M., to-morrow.

HARRY R. COMLY, *Chief Clerk*.

TWENTY-THIRD DAY.

COUNCIL CHAMBER, }
January 30th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

A petition asking for the passage of a law to prevent the sale of spirituous liquors on Sundays, was presented by Mr. Hays, read, and referred to the Committee on Education.

Mr. Watson reported as follows:

MR. PRESIDENT:—Your Committee on Printing, to whom was referred C. B. No. 26, "An Act concerning apprentices," beg leave to report the same back to the Council correctly printed.

Respectfully submitted,

WATSON, *Chairman.*

The bill was referred to the Committee on Education and Labor.

The following reports were received:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 17, entitled "A bill to amend section 286, chapter 12, of the criminal practice act," approved January 12th, 1872, have instructed me to report the same back to the Council, with the recommendation that the same be referred to the Committee of the Whole.

CULLEN, *Chairman.*

On motion of Mr. Cullen, the report was adopted.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 25, "An Act to amend the criminal practice

act," have instructed me to report the same back to the Council, with the recommendation that the same do not pass.

CULLEN, *Chairman*.

On motion of Mr. Brown, the rules were suspended, the bill considered engrossed, and ordered to a third reading.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,'" approved May 6th, 1873, have instructed me to report the same back to the Council, with the recommendation that the bill pass.

CULLEN, *Chairman*.

Ordered to third reading.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 31, entitled "An Act to amend section 261 of the civil practice act of the territory of Montana," have instructed me to report the same back to the Council, and recommend its passage, with the following amendments, to-wit:

Add the following proviso to the end of section 1, to-wit: "*Provided*, Such homestead shall not exceed in value the sum of three thousand dollars." And strike out section 2 of the bill.

CULLEN, *Chairman*.

On motion of Mr. Watson, the amendments reported were adopted, and, on motion of Mr. Hays, the bill, as amended, was referred to the Committee of the Whole.

MR. PRESIDENT:—Your Committee on Elections, to whom was referred H. B. No. 13, "An Act to amend section 31 of an act to provide for biennial elections in the territory of Montana," beg leave to report that we have carefully considered the same, and recommend that the same do pass.

ALLEBAUGH, *Chairman*.

Bill ordered to third reading.

MR. PRESIDENT:—Your Committee on Education, to whom was referred C. B. No. 13, "An Act to prohibit the traffic in intoxi-

cating liquors on Sundays," respectfully submit the following minority report: (1.) That the provisions of the bill are in accord with the enlightened spirit of the age. (2.) That its tendency cannot fail to be for public morality and public good. (3.) That while it may not cover the entire ground, it is still a step in the right direction, and as such should be upheld and supported.

Your committee therefore submit this minority report, recommending that said bill do pass.

B. H. TATEM.

MR. PRESIDENT:—Your Committee on Education, to whom was referred C. B. No. 13, "An Act to prohibit the traffic in intoxicating liquors on Sundays," have had the same under consideration, and would respectfully make a majority report, and recommend that it do not pass.

McADOW, *Chairman*.

CONSTANS.

Mr. Hays moved to adopt the minority report; which motion was lost by the following vote:

Ayes—Allebaugh, Ford, Hays, Lewis, Tatem, and Mr. President—6.

Nays—Brown, Constans, Cullen, Mitchell, McAdow, Waterbury, and Watson—7.

Mr. Waterbury moved to adopt the majority report; which motion prevailed by the following vote:

Ayes—Brown, Constans, Cullen, Mitchell, McAdow, Waterbury, and Watson—7.

Nays—Allebaugh, Ford, Hays, Lewis, Tatem, and Mr. President—6.

On motion of Mr. Hays, the bill was referred to the Committee of the Whole.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 35, "An Act to amend chapter 40 of the codified statutes," have examined the same, and find the same correctly engrossed.

BROWN, *Chairman*.

FORD.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. J. M. No. 4, in relation to certain territorial officers, have carefully examined the said memorial and find the same correctly engrossed.

A. BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Enrollment, to whom was referred C. B. No. 9, "An Act to compel the owners of ditches or flumes to keep the same in repair," and C. B. No. 11, "An Act to provide for the employment of stenographers in the district courts," report the said bills correctly enrolled.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your Committee on Federal Relations, to whom was referred H. B. No. 12, recommend that the same be amended by the insertion of a new section, to be numbered "section 7," as follows: "Wherever the word 'maintenance' occurs in the preceding sections of this act, it is understood to mean support in sickness as well as in health, including all necessary medical attendance and care." Section 7 to be renumbered section 8.

A. A. BROWN,

B. H. TATEM,

THOS. WATSON,

Committee on Federal Relations.

On motion of Mr. Brown, the amendments were adopted, and the bill referred to the Committee of the Whole.

The Council went into Committee of the Whole to consider the special order for 10:30 A. M.

Council resumed—Mr. President in the chair.

On motion of Mr. Brown, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

The following communication from the Secretary of Montana was received and referred to the Committee on Federal Relations:

OFFICE OF SECRETARY OF MONTANA, }
HELENA, January 30th, 1877. }

To the President and Members of the Council of Montana:

GENTLEMEN:—In reply to your resolution of the 29th instant, asking as to my authority to pay the members and officers of the Council when such members or officers may be absent on leave, and as to the duties of the President and Chief Clerk in making up and certifying the pay-roll, I have the honor to call your attention to the following provisions of the organic act of Montana:

“Section 9. And there shall also be appropriated annually a sufficient sum, to be expended by the Secretary of the territory upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses.”

Also, that the Secretary of the territory, in the disbursement of all the moneys intrusted to him, shall be governed solely by the instructions of the Secretary of the Treasury of the United States. My instructions from the Secretary of the Treasury of the United States are:

First. As to pay of members: The per diem of a member dates from the day he is sworn in as such. If a member does not appear to take his seat until (after the first day of the session, he can only be paid from the day he so appears; no deduction will be made when) after that day, he is unable to attend the session in consequence of sickness; but when a member shall absent himself as much as one whole day, whether it be with leave or not, his pay for the time he shall be so absent will be deducted, and the presiding officer, in the certificate he shall make to the Secretary of the territory, attached to the pay-roll relative to the attendance of such member, will so specify it. The per diem is not attached to the office while held as a sinecure, but is expressly given as compensation for, and its payment made dependant upon, the attendance of the members. The certificate of the presiding officer, before referred to, will not be given upon each separately, but shall be written below

the roll, which roll shall show the amount per diem and mileage due each member of the House, over which he presides. The Chief Clerk of each House, who will make up the roll from the journal and certificates of election in his charge, will join the presiding officer in his certificate.

These rolls, when thus certified, are a sufficient warrant to enable the Secretary of the territory to pay upon them, liable, however, to correction by the Secretary in any error of fact.

It is, however, proper to add that when a member is absent on committee, under instructions from either House, he is considered to be in attendance at the session, and will be paid accordingly.

Second. As to mileage: Four dollars for every twenty miles travel to and from the residences of the members, to be estimated according to the nearest usually traveled route, is the mileage allowable. No mileage can be allowed the officers chosen by the Assembly, excepting, of course, the presiding officer, who receives his as a member.

Third. During the temporary organization of the Legislative Assembly, the following officers, and none others, will be paid, viz: the presiding officer of each House; the Chief Clerk of each House; the Sergeant-at-Arms of each House; the Doorkeeper of each House; also the Page and Watchman of each House, if actually employed. This is upon the theory, and is practically true, that no other officers are necessary during the temporary organization. From and after the permanent organization all officers will be paid regularly until the close of the session. As to whether officers are absent or present in the discharge of their respective duties, is a matter under the control of the respective Houses.

During the session the members and officers of both Houses are paid for Sundays the same as other days.

I have the honor to be, with great respect,

Your obedient servant,

J. E. CALLAWAY,

Secretary of the Territory of Montana.

Mr. Brown reported as follows:

MR. PRESIDENT:—Your special committee on mileage beg leave to report that they have performed the duty assigned them, and herewith transmit the same:

	MILES.		MILES.
Allebaugh, . . .	210	Ford, . . .	168
Brown, . . .	60	McAdow, . . .	220
Mitchell, . . .	104	Hays, . . .	230
Waterbury, . . .	220	Constans, . . .	10
Bass, . . .	360	Tatem, . . .	00
Watson, . . .	330	Cullen, . . .	00
Lewis, . . .	70		

All of which is respectfully submitted.

A. BROWN, *Chairman.*

On motion of Mr. Hays, the report was adopted.

The Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

The following communications were received:

HOUSE OF REPRESENTATIVES, }
January 30th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that notices were given:

By Mr. Rotwitt—"An Act in relation to county treasurers."

Also, a bill referring to Dawson and Big Horn counties.

By Mr. Chadwick—"An Act to amend section 69 of the criminal practice act," approved January 12th, 1872.

That bills were introduced:

By Mr. Kessler—H. B. No. 41, "An Act to protect persons and property."

By Mr. Steell—H. B. No. 42, "An Act to create the county of Dearborn."

By J. G. Sanders—"An Act to authorize the several counties of this territory to change their county seats."

By Mr. Rotwitt—H. J. R. No. 1, changing the name of Little Big Horn river to Custer's river. Rules suspended and passed, and is herewith transmitted.

That H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," was ordered printed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

HOUSE OF REPRESENTATIVES, }
January 30th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that H. B. No. 18, "An Act defining the powers and duties of the board of county commissioners of Gallatin county," has passed the House.

That H. B. No. 24, "An Act to provide for the relief of F. C. Deimling," has passed the House.

That said bills are herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Ford gave notice as follows:

MR. PRESIDENT:—I will on to-morrow, or some future day, introduce a bill entitled "An Act to provide for the appointment of deputy assessors."

R. S. FORD.

On motion of Mr. Mitchell, the Council went into executive session.

Council resumed—doors opened, and the Clerk was directed to make a minute on the journal that the Council, in executive session, confirmed the following nominations of the Governor for notaries public, to-wit:

William J. Stevens, of Missoula county.

Charles W. Turner, of Beaver Head county.

John R. Quigley, of Deer Lodge county.

On motion of Mr. Allebaugh, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk.*

TWENTY-FOURTH DAY.

COUNCIL CHAMBER, }
January 31st, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by the Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

The following report was received:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 29, "An Act in relation to married women," beg leave to report the same back to the Council correctly printed.

WATSON.

Bill referred to the Judiciary Committee.

Mr. McAdow gave notice as follows:

MR. PRESIDENT:—I hereby give notice that I will on to-morrow, or some future day, introduce a bill to provide for the care and maintenance of the insane.

McADOW.

Mr. McAdow introduced C. B. No. 38, "An Act to authorize the county commissioners of Gallatin county to issue bonds for the purpose of constructing a public highway;" was read the first and second times, and referred to the Committee on Roads and Highways.

Mr. Ford introduced C. B. No. 39, "An Act prescribing the fees of the clerks of the district courts in the several counties of the territory, and other officers;" was read the first and second times, and referred to the Printing Committee.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
January 31st, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876, has passed the House; also, H. B. No. 23, "An Act with reference to the exhibit of Montana at the national exhibition;" also, H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory;" and are herewith transmitted.

That H. B. No. 29, "An Act to regulate and establish the fees of county treasurers," was read the third time, and lost in the House.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," was read first and second times, and referred to the Committee on Agriculture and Manufactures.

Mr. President announced that he was about to sign C. B. No. 11, "An Act to provide for the employment of stenographers in the district court;" also, C. B. No. 9, "An Act to compel the owners of ditches to keep the same in repair."

H. B. No. 18, "An Act defining the powers and duties of the board of county commissioners of Gallatin county," was read first and second times, and, on motion of Mr. Cullen, was referred to a select committee of the members from Gallatin county.

H. B. No. 23, "An Act with reference to the exhibit of Montana at the national exhibition," was read first and second times, and, on motion of Mr. Cullen, the rules were suspended, the bill read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

H. B. No. 24, "An Act for the relief of F. C. Deimling," was read first and second times, and referred to the Military Committee.

H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory," was read first and second times, and Mr. Brown moved to refer to the Committee on Ways and Means; which motion prevailed, and the bill was so referred.

H. J. R. No. 1, changing the name of Little Big Horn river to Custer's river, was read first and second times, and, on motion of Mr. Mitchell, the rules were suspended, the resolution read the third time, and, on motion of Mr. Tatem, the vote was taken by the members rising in place as their names were called, and the resolution passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

The Enrolling Committee reported as follows:

MR. PRESIDENT:—Your Joint Committee on Enrollment respectfully report that they have presented to the Governor for his action, at 11 A. M., January 31st, 1877, C. B. No. 9, "An Act to compel the owners of ditches or flumes to keep the same in repair;" also, C. B. No. 11, "An Act to provide for the employment of stenographers in the district court." I. I. LEWIS, *Chairman*.

H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,'" approved May 6th, 1873, was read the third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Watson, and Mr. President—10.

Nays—Brown and Ford—2.

Excused—Mr. Waterbury.

Title agreed to.

H. B. No. 13, "An Act to amend section 31 of an act to provide for biennial elections in the territory of Montana," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. J. M. No. 4, in relation to certain territorial officers, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. B. No. 25, "An Act to amend the criminal practice act," was read third time, and lost by the following vote:

Ayes—Cullen, Lewis, and Mr. President—3.

Nays—Allebaugh, Brown, Constans, Ford, Hays, Mitchell, McAdow, Tatem, Waterbury, and Watson—10.

C. B. No. 35, "An Act to amend chapter 40 of the codified statutes," was read third time, and, on motion of Mr. Tatem, was referred to the Judiciary Committee.

The following report was received:

MR. PRESIDENT:—Your select committee to whom was referred H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad," have directed me to report the same back to the Council, with the following amendments, and so amended, to recommend its passage:

First. In section 2, line 14 (written copy), after "tax-payers," insert "upon real and personal property."

Second. In section 3, next line to last, erase "1878," and insert "September 1st, 1877."

Third. To section 4 add: "*Provided further*, That when this question has been once submitted to the legal voters of a county and rejected, it shall not be again submitted to the voters of such county."

Fourth. In section 9, line 13 (writtten copy), strike out "the first of," and insert "or before the fifteenth day of." Line 14, after "month," insert "for the preceding month."

Fifth. Add to section 9: "In default of the rendition of the account, and payment thereof, as provided in this section, the Territorial Treasurer is hereby empowered, and it is made his duty, to collect this tax in the same manner that county treasurers collect other taxes, and he shall receive as compensation for his services two and one-half per centum of amount so collected."

Sixth. Add to section 10: "Every railroad company shall have the right, with *its* road, to intersect, connect with, or cross the road provided for in this act. And said company shall receive and transport passengers, tonnage, and cars, loaded or empty, without delay or discrimination; nor shall the company grant a free pass, or passes at a discount, to any person except officers and employes of the company: *Provided*, That excursion and commutation tickets may be issued at special rates."

Seventh. Section 13, add, "are levied."

Eighth. Section 15, line 16, erase "treasurer," and insert "treasurers."

Ninth. Section 15, line 19, erase "his," and insert "their."

Tenth. Section 15, erase all from "act," line 20, to "dollars," in line 24.

Eleventh. Section 16, line 1, erase "treasurer," and insert "treasurers."

Twelfth. Section 16, line 4, erase "his," and insert "their."

Thirteenth. Section 19, line 8, erase "February 1st, 1878," and insert "August 1st, 1877."

Fourteenth. Section 19, line 19, erase "the" before the word "county."

Respectfully,

B. H. TATEM, *Chairman.*

On motion of Mr. Cullen, the Council took a recess until 2 o'clock P. M.

2 OCLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

Mr. Hays presented a petition asking the passage of a law prohibiting the sale of liquor on Sunday; which, on motion of Mr. Mitchell, was laid on the table.

Mr. Watson reported as follows:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 24, "An Act relating to mining corporations," report the same correctly printed.

WATSON.

The bill reported was referred to the Committee of the Whole.

Mr. Ford introduced the following, and moved its adoption:

Resolved, That the Council will not consider any railroad proposition that proposes to subsidize any railroad company, corporation, or individuals to build a railroad outside of the present boundary lines of this territory.

R. S. FORD.

A call of the House was ordered.

Roll called—absent, Mr. Tatem.

The President ordered the Sergeant-at-Arms to bring in the absentee.

Mr. Tatem appeared in his seat.

On motion of Mr. Brown, the call was dispensed with, and Mr. Ford's resolution was lost by the following vote:

Ayes—Constans, Ford, Hays, McAdow, and Mr. President—5.

Nays—Allebaugh, Brown, Cullen, Lewis, Mitchell, Tatem, Waterbury, and Watson—8.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
January 31st, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that Mr. Davis gave notice of a bill for "An Act to provide for the collection of statistics."

That bills were introduced as follows:

By Mr. Robinson—H. B. No. 44, "An Act to amend an act concerning license."

By Mr. Chadwick—H. B. No. 45, a bill to amend section 69 of the criminal practice act," approved January 12th, 1872.

By Mr. McElroy—H. B. No. 46, a bill exempting the wages of employes from attachment.

That C. B. No. 16, "An Act to authorize the trustees of school district No. 7, in Gallatin county, Montana territory, to issue and sell coupon bonds of said district for school purposes," has passed the House, with amendments. The title was amended so as to read as follows: "An Act to enable the people of Bozeman to erect a school house."

Respectfully,

A. H. BARRET, *Chief Clerk.*

The Council went into Committee of the Whole on the general orders.

Council resumed.

The Council took up the report of the Committee of the Whole on H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad," and, on motion of Mr. Cullen, proceed-

ed to consider the amendments separately; whereupon, on motion of Mr. Hays, the first amendment was adopted by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Watson—11.

Nays—Cullen and Mr. President—2.

On motion of Mr. Hays, the second amendment was adopted.

On motion of Mr. Hays, the third amendment was adopted.

On motion of Mr. Hays, the fourth amendment was adopted.

On motion of Mr. Watson, the fifth amendment was adopted.

Mr. Cullen moved to reject the sixth amendment; which motion prevailed, and the amendment was rejected.

On motion of Mr. Cullen, the seventh and eighth amendments were severally adopted.

On motion of Mr. Ford, the ninth and tenth amendments were severally adopted.

On motion of Mr. Lewis, the eleventh amendment was adopted.

On motion of Mr. Cullen, the twelfth amendment was adopted.

On motion of Mr. Hays, the thirteenth amendment was adopted.

On motion of Mr. Cullen, the fourteenth amendment was adopted.

On motion of Mr. Cullen, the following amendment, offered by Mr. Tatem, was adopted:

“In section 3, sub-division 5, line bottom of page, change “Helena and Benton” to “Benton and Helena.”

The amendments were ordered engrossed, and the bill ordered to a third reading.

The following report was received:

MR. PRESIDENT:—The Committee of the Whole make the following report on C. B. No. 18, "An Act to secure railroad communication to the people of Montana:"

Section 1. In line 2, strike out the word "any," and insert "the;" strike out the words "lying between the mouth of Echo Canon and Promontory Point," and insert "or any railroad connecting with the junction of said roads;" also, in line 2, strike out "with," and insert "of;" in line 7, strike out all of line 7, and insert "eight thousand dollars per mile for each mile of road built within the limits of the present boundary lines of the territory of Montana, under the provisions of this act."

Section 2. In line 1, strike out the word "any," and insert "the;" strike out "or," and insert "and;" strike out in line 2, the words "between the mouth of Echo Canon and Promontory Point;" line 3, after the word "route," strike out "by the way of the Big Hole river, to the mouth of White Tail Deer Creek," and insert "to a point as far north as the mouth of White Tail Deer Creek;" line 6, after the word "half," insert "inches;" strike out "furnished," and insert "finished."

Section 3. In line 4, strike out "centage," and insert "centum;" in line 5, after the words "date thereof," insert "and shall not be issued until said road crosses the present southern line of this territory." Add to section: "*Provided*, That the bonds mentioned in this section shall not be issued unless this act shall be approved by a majority of the qualified electors of this territory."

Section 7. In line 3, after the word "provided," insert "and upon the best attainable terms for the territory;" in line 2, after the word "contract," add "under the provisions of this act."

Section 9. Add to section 9 the following: "But such bonds shall not be issued until the Governor shall have first given notice by publication in two or more newspapers published in this territory, that such bonds have been earned by such railroad company, and that they have applied for the issuance thereof, and that on a day named in such notice, which shall be at least thirty days after the first publication of such notice, that such bonds will be issued."

Section 10. In line 4, after the word "association," insert "bearing interest at the rate of seven per centum per annum." In same

line strike out "whose par value shall equal the par value of the," and insert "equal in." In same line strike out "of" and insert "to." In line 18, after "contract" insert "in any particular constituting a material element in the same." In same line strike out "for the construction of the same."

Section 14. "There shall be levied and collected by such company, association, or corporation, upon each ton of two thousand pounds, of any and all goods, ores, wares, merchandise, and other freight carried and transported on said road, a tax of one dollar per ton, and also a tax of one per cent of the value of all bullion and precious metals carried on said road, and also a tax of one dollar for each and every passenger traveling from the territory on said road; which tax, when so collected, shall be paid into the territorial treasury every three months, and be applied solely and exclusively to the payment of the interest to become due on said bonds so issued, and the principal as said bonds shall mature. The said company, association, or corporation shall, at the time of each quarterly payment, make a full statement to the Territorial Treasurer of such tax so collected, under oath of the secretary of said company."

Renumber section 14 to be section 12, and section 12 to be section 13, and section 13 to be section 14.

The committee directed the chairman to report the bill back to the Council with a recommendation that it be referred to a select committee of one from each county.

Very respectfully,

B. H. TATEM, *Chairman*.

On motion of Mr. Cullen, the report was adopted, and the bill referred to a committee of one from each county, consisting of Messrs. Mitchell, Waterbury, Cullen, Watson, Ford, Hays, Lewis, and Allebaugh.

The following report was received:

MR. PRESIDENT:—Your Committee on Military Affairs, to whom was referred H. B. No. 24, "An Act for the relief F. C. Deimling," would report the bill back to Council and recommend its passage.

TATEM, *Chairman*.

On motion of Mr. McAdow, the Council adjourned until tomorrow at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

TWENTY-FIFTH DAY.

COUNCIL CHAMBER, }
February 1st, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

Mr. Mitchell presented a petition asking for a Sunday liquor law; which, on motion of Mr. Cullen, was referred to the Committee on Internal Improvements.

The following report was received:

MR. PRESIDENT:—Your Committee on Printing, to whom was referred C. B. No. 32, "An Act for the government of unorganized counties," report the same correctly printed.

WATSON, *Chairman.*

The following communication was received:

MONTANA TERRITORY, }
EXECUTIVE DEPARTMENT, }
HELENA, February 1st, 1877. }

To the Legislative Assembly:

I have the honor to transmit herewith a copy of a communication from Sister Josephine, in charge of St. John's Hospital, Helena, Montana.

I respectfully recommend that authority be granted to accept the proposition contained in the communication, to maintain, etc., three insane persons now confined in said hospital, until such time as other provisions are made for them.

Very respectfully,
B. F. POTTS.

ST. JOHN'S HOSPITAL, HELENA, M. T., }
January 31st, 1877. }

To His Excellency, B. F. Potts, Governor of Montana:

In reply to your note of yesterday, I have the honor to state that I will keep the persons mentioned at nine dollars each, per week, which consideration, of course, includes clothing, care, support, etc., until such time as other provision shall be made. I will secure such medical treatment as will be necessary, and offer the same gratis during the time specified above.

Most respectfully,
(Signed.) SISTER JOSEPHINE.

The following reports were received:

MR. PRESIDENT:—Your Committee on Education would respectfully report C. B. No. 26, "An Act concerning apprentices," back to the House, and recommend that it be referred to the Committee of the Whole.

McADOW, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred Council amendments to H. B. No. 4, have carefully examined the same and find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Federal Relations, to whom was referred C. J. M. No. 3, asking for the privilege of electing territorial officers, having carefully examined the same, beg leave to report the same back and recommend its passage, for the reason that, in the opinion of your committee, it is eminently just

and proper that the electors of the territories should have the right to choose their public servants by ballot, thus making them directly responsible to the people for their acts.

BROWN, *Chairman*.

LEWIS.

TATEM.

The memorial was ordered engrossed.

The following report was received:

MR. PRESIDENT:—Your select committee, composed of the delegation from Gallatin, would respectfully report H. B. No. 18, "An Act defining the powers and duties of the board of county commissioners of Gallatin county," and recommend the following amendment: Section 5, line 6, strike out after "village," "said county shall," and insert "the property holders of said city, town, or village shall be required to."

With the amendment, we recommend the bill do pass.

McADOW.

HAYS.

On motion of Mr. Cullen, the amendments were adopted, and ordered engrossed for third reading.

Mr. McAdow introduced C. B. No. 40, "An Act to define the duties of assessors." Read first and second times, and referred to the Committee on Elections.

Mr. Allebaugh introduced C. B. No. 41, "An Act in relation to the redemption of real property." Read first and second times, and ordered printed.

Mr. McAdow introduced C. B. No. 42, "An Act to provide for the custody, maintenance, and treatment of the insane." Read first and second times, and referred to Committee on Ways and Means.

Mr. Mitchell introduced C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary." Read first and second times, and ordered printed.

Mr. Tatem introduced C. C. R. No. 6, to authorize presiding officers to correspond with railroad companies, which, on motion of Mr. Waterbury, was adopted.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 1st, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that H. J. M. No. 1, in relation to restoring a portion of the Crow Indian reservation to the public domain, has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. J. M. No. 1, in relation to restoring a portion of the Crow Indian reservation to the public domain, was read first and second times, and, on motion of Mr. Watson, the rules were suspended, the memorial read a third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad," was, on motion of Mr. McAdow, recommitted to the special committee to whom it was formerly referred.

H. B. No. 18, "An Act defining the powers and duties of the board of county commissioners of Gallatin county in certain cases," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Mr. President—11.

Nays—Ford and Watson—2.

Title agreed to.

H. B. No. 24, "An Act for the relief of F. C. Deimling," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Lewis, Mitchell, Tatem, Waterbury, Watson, and Mr. President—10.

Nays—Ford, Hays, and McAdow—3.

The title was agreed to.

The following report was received:

MR. PRESIDENT:—Your committee to whom was referred H. B. No. 33, entitled "An Act to provide for publishing the reports of the supreme court of the territory," report the same back to the Council with the following amendment: Add to section 1, "*Provided, That the whole expense of publication of a full edition of such reports shall not exceed the sum of fifteen hundred dollars.*"

With the above amendment, we recommend the bill do pass.

WATERBURY.

FORD.

ALLEBAUGH.

On motion of Mr. Cullen, the amendments were adopted, and the bill ordered to third reading.

On motion of Mr. McAdow, House amendments to C. B. No. 16, "An Act to enable the people of Bozeman to erect a school house," were concurred in, and the bill ordered enrolled.

On motion of Mr. Hays, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

Council went into Committee of the Whole to consider the general orders.

Council resumed—Mr. President in the chair.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 1st, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that notices were given as follows:

By Mr. Robinson—A bill relating to civil actions.

By Mr. Brainard—"An Act to amend an act in relation to revenues."

By Mr. Ives—"An Act to provide means to increase the sinking fund of Missoula county."

Also, "An Act to provide for the payment of the indebtedness of Missoula county."

By Mr. Porter—"An Act to transfer the moneys derived from the sale of town lots in the town site of Butte to the school fund of school district No. 3, for the building and furnishing of a school house in said town."

That bills were introduced as follows:

By Rotwitt—H. B. No. 47, a bill for "An Act defining the relations of the counties of Big Horn and Dawson to the counties of Gallatin and Meagher."

By Davis—H. B. No. 48, a bill to repeal "An Act to provide for the collection of statistics," approved January 12th, 1872.

By select committee—H. B. No. 49, a bill for "An Act to consolidate offices and to reduce fees."

That H. C. R. No. 4 has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Mitchell, the Council adjourned until 10 o'clock A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk.*

TWENTY-SIXTH DAY.

COUNCIL CHAMBER, }
February 2d, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

The following reports were received:

MR. PRESIDENT:—Your committee to whom was referred C. J. M. No. 3, asking for the privilege of electing territorial officers, etc., find the same correctly engrossed.

BROWN.

FORD.

HAYS.

MR. PRESIDENT:—Your Committee of the Whole Council, to whom was referred C. B. No. 17, to amend section 286, chapter 12, criminal practice act, approved January 12th, 1872 (codified statutes, page 234), have had the same under consideration, and have instructed me to report the same back to the Council, with the recommendation that the same do pass.

Also, C. B. No. 24, "An Act in relation to mining corporations," and have instructed me to report said last named bill back to the Council with the recommendation that the same be laid on the table.

A. BROWN,

Chairman of the Committee of the Whole.

C. B. No. 17, to amend section 286, chapter 12, of the criminal practice act, approved January 12th, 1872 (codified statutes, page 234), was ordered engrossed.

On motion of Mr. Waterbury, C. B. No. 24, "An Act relative to mining corporations," was laid on the table.

Mr. Hays reported as follows :

MR. PRESIDENT:—Your Committee on Roads and Highways respectfully report C. B. No. 38, "An Act to authorize the county commissioners of Gallatin county to issue bonds for the purpose of constructing a public highway," and recommend it passage.

HAYS, *Chairman*.

The bill reported was ordered engrossed.

Mr. McAdow introduced C. B. No. 44, "An Act to regulate the election of county commissioners;" was read the first and second times, and referred to the Committee on Elections.

Mr. McAdow moved that H. C. R. No. 4, in relation to the territorial seal, be rejected; which motion prevailed, and the resolution was rejected.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 1st, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that the House concurred in C. C. R. No. 6, with amendments.

That H. B. No. 49, "An Act to consolidate county offices," was rejected.

Respectfully,

A. H. BARRET, *Chief Clerk*.

On motion of Mr. Watson, the House amendments to C. C. R. No. 6, in relation to presiding officers communicating with railroad companies, etc., were concurred in.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred "An Act to provide a system of common schools," having carefully examined the same, find the same correctly engrossed.

BROWN, *Chairman*.

FORD.

HAYS.

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,'" approved May 6th, 1873; also, H. B. No. 13, "An Act to amend section 31 of an act to provide for biennial elections in the territory of Montana;" also, H. J. R. No. 1, commemorating the death of General George A. Custer; respectfully report the same correctly enrolled.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your Committee on Incorporations, to whom was referred the report of the Historical Society, have had the same under consideration, and would respectfully state that, in addition to the papers referred to them, they have received from the society an itemized account setting forth the manner in which the moneys appropriated by the territory were expended, and for what purpose, and find the report of the treasurer of the society to be correct, and a balance of money appropriated, unexpended, on hand, in the sum of \$46.36.

Respectfully submitted,

CONSTANS, *Chairman*.

H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. J. M. No. 3, asking for the privilege of electing territorial officers, etc., was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. B. No. 3, "An Act to provide a system of common schools," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Watson, and Mr. President—10.

Nays—Brown, Tatem, and Waterbury—3.

Title agreed to.

Mr. Mitchell gave notice that on to-morrow he would move to reconsider.

Mr. McAdow moved to reconsider now.

Mr. Hays moved to lay it on the table; which motion prevailed, and the motion to reconsider was tabled.

Mr. Watson reported:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 33, "An Act concerning divorce," beg leave to report the same back to the Council correctly printed.

Respectfully submitted,

WATSON, *Chairman*.

The bill reported was referred to the Judiciary Committee.

The following report was received:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 42, entitled "An Act to provide for the custody, maintenance, and treatment of the insane," have had the same under consideration, and recommend that it do not pass.

WATERBURY.

ALLEBAUGH.

FORD.

Mr. Waterbury moved to adopt the report.

Mr. Ford moved to recommit to a special committee of three; which motion prevailed, and the President appointed Messrs. Ford, Mitchell, and Waterbury as such committee.

Mr. Brown offered the following resolution, which, on his motion, was adopted:

Resolved by the Council, That final action upon railroad matters is hereby postponed until Tuesday, February 6th, 1877.

Mr. Tatem was granted leave of absence for the afternoon.

On motion of Mr. Hays, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

C. B. No. 32, "An Act for the government of unorganized counties," was referred to the Committee on Towns and Counties.

Mr. Watson reported as follows:

MR. PRESIDENT:—The Committee on Printing, to whom was referred C. B. No. 39, "An Act prescribing the fees of the clerks of the district courts in the several counties of the territory, and other officers," beg leave to report the same correctly printed.

WATSON, *Chairman.*

The bill reported was referred to the Judiciary Committee.

The Council went into Committee of the Whole to consider the general orders.

Council resumed—Mr. President in the chair.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 2d, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that H. B. No. 14, "An Act re-apportioning the members of the Legislative Assembly," H. B. No. 39, "An Act to amend section 147 of the criminal laws," approved January 12th, 1872 (codified statutes), H. B. No. 40, "An Act defining the boundaries of Chouteau county," H. B. No. 30, "An Act to provide

compensation to J. C. Kerley, Hugh McQuaid, and L. F. Lacroix," and H. J. M. No. 2, to establish a mint at Helena, Montana, have passed the House, and are herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. J. M. No. 2, for the establishment of a branch mint at Helena, Montana territory, was read the first and second times, and, on motion of Mr. Watson, the rules were suspended, read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Tatem.

Title agreed to.

H. B. No. 14, "An Act re-apportioning the members of the Legislative Assembly," was read the first and second times, and, on motion of Mr. Brown, was referred to a committee of one from each county, consisting of Messrs. Brown, Constans, Lewis, Hays, Watson, Ford, Waterbury, and Allebaugh.

H. B. No. 30, "An Act to provide compensation to J. C. Kerley, Hugh McQuaid, and L. F. Lacroix, for printing," was read first and second times, and referred to the Committee on Ways and Means.

H. B. No. 39, "An Act to amend section 147 of the criminal laws," approved January 12th, 1872 (codified statutes), was read first and second times, and referred to the Judiciary Committee.

H. B. No. 40, "An Act defining the boundaries of Chouteau county," was read first and second times, and referred to a select committee consisting of the members from Chouteau, Deer Lodge, and Lewis and Clarke.

On motion of Mr. Hays, the Council adjourned until 10 A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk.*

TWENTY-SEVENTH DAY.

COUNCIL CHAMBER, }
February 3d, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Minutes of the yesterday read and approved.

Mr. Mitchell was granted leave of absence until Monday morning.

Messrs. McAdow, Hays, Brown, Ford, Lewis, and Waterbury, severally presented petitions on the liquor and Sunday questions.

On motion of Mr. Cullen, the Clerk was instructed to transmit the petitions to the House.

Mr. Waterbury presented a petition of residents of Deer Lodge county, relating to the proposition of Jay Gould and others to build a railroad, which, on motion, was referred to the committee in charge of the North and South Railroad bill.

Mr. Brown sent up an address of Mrs. Swisshelm, which was read.

Mr. Brown moved to send the address of Mrs. Swisshelm, on the liquor question, to the House.

Mr. Hays moved to refer to Committee on Federal Relations, with instructions to bring in a bill requiring persons to put castor oil in their whisky.

Mr. Tatem moved to indefinitely postpone the whole matter.

Mr. Hays's motion was lost.

The motion to indefinitely postpone was lost.

The motion to transmit prevailed.

Mr. Tatem moved to reconsider.

Mr. Waterbury moved to lay on the table, and the motion to reconsider was laid on the table.

Mr. Waterbury introduced a petition from the county commissioners of Deer Lodge county, which, on motion of Mr Waterbury, was referred to Committee on Elections.

The following reports were received:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred C. B. No. 16, "An Act to enable the people of Bozeman to erect a school house," respectfully report the same correctly enrolled.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your Committee on Printing, to whom was referred C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary;" also, C. B. No. 41, "An Act in relation to the redemption of real property," report the same correctly printed.

WATSON, *Chairman*.

The bills reported were referred to the Committee on Judiciary.

MR. PRESIDENT:—Your Committee on Elections, having had under consideration C. B. No. 44, "An Act to regulate the election of county commissioners," would respectfully report the same back to the Council and recommend its passage.

ALLEBAUGH, *Chairman*.

Bill ordered engrossed.

MR. PRESIDENT:—The Committee on Towns and Counties, to whom was referred C. B. No. 32, "An Act for the government of unorganized counties," beg leave to report the same back to the Council, and recommend its passage.

WATSON.

Bill ordered engrossed.

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 23, "An Act with reference to the exhibit of Montana at the national exhibition;" also, H. B. No. 24, "An Act for the relief of F. C. Deimling," respectfully report said bills correctly enrolled.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 38, "An Act to authorize the county commissioners of Gallatin county to issue bonds for the purpose of constructing a public highway;" also, C. B. No. 17, "An Act to amend section 286, chapter 12, of the criminal practice act," approved January 12th, 1872 (codified statutes, page 234), have examined the same, and find the same correctly engrossed.

BROWN, *Chairman*.

Mr. President announced that he was about to sign H. B. No. 24, "An Act for the relief of F. C. Deimling;" H. B. No. 23, "An Act with reference to the exhibit of Montana at the national exhibition;" H. J. R. No. 1, commemorating the death of Gen. Geo. A. Custer; C. B. No. 16, "An Act to enable the people of Bozeman to erect a school house;" H. B. No. 13, "An Act to amend section 31 of an act to provide for biennial elections in the territory of Montana;" H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,' approved May 6th, 1873.

The following report was presented by Mr. Ford:

MR. PRESIDENT:—Your committee to whom was referred H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876, would respectfully represent that said act, known as the "round-up law," has worked a material hardship on small stock owners, where the law was carried into effect, and most especially on ranchmen who carry on agricultural pursuits in connection with stock growing, whose time was taken up in putting in their crops during the round-up season, and whose cattle were taken and sold by the stock boards to benefit the large stock owners in carrying on said round-up, because ranchers did not have the time to spare to attend these round-ups.

Stock growers are so differently located and situated, and their interests are so varied, that, in the opinion of your committee, the legislature cannot pass a general law to meet the wants of the majority of stock growers without being detrimental to the interests of the minority; therefore, each county or district should be allowed to regulate their own affairs, or form a stock growers' association, and be governed thereby. It is further the opinion of your committee that it is to the interest of every stock grower to record his mark and brand, or brand. Then there could be a pamphlet or book published of the different marks and brands in alphabetical order, by counties; every stock man could own one of these books, and when he saw an animal with mark or brand, could refer to said book and tell who owned the animal; neighbor-like, he would write to the owner and inform him that his animal was on his range, that he would take the same care of it as his own until such time as the owner would have an opportunity of sending for it. Then all animals would be known by their mark and brand, or brand, and there need not nor should not be an estray (condemned and sold) throughout the territory; thereby materially advancing the interests of all stock growers, by inducing them to assist one another in keeping track of their stock. Round-ups for stock men to gather their stock, are actually necessary in many localities, but they should be governed by stock growers themselves. "Mavericks," or unmarked and unbranded yearlings that have left their mothers, thereby losing their identity, as they belong to stock men, should be divided among stock owners in proportion to the number of stock each owner of stock listed to the assessor the year previous to the round-up.

In the opinion of your committee, these are the main points that should govern stock growers, and as what is known as the "round-up law," legalized stock boards to rob small owners of their stock, your committee would respectfully report said bill back to the Council, and recommend its passage.

R. S. FORD.

Mr. Cullen moved that the report and bill be referred to Committee of the Whole; which motion was lost.

On motion, the bill was laid on the table.

The following report of the Committee of the Whole was received :

First. C. B. No. 21 was, by motion, laid on the table for the present.

Second. C. B. No. 13 was, by motion, laid on the table for the present.

Third. C. B. No. 31 : Provision added to section 1, as follows : " *Provided*, That the buildings on such homestead shall not exceed in value the sum of five thousand dollars." Section adopted as amended. Section 2 adopted. Section 3 adopted.

On motion, the committee rose, with instructions that the chairman report the bill back as amended, with the recommendation that it do pass.

McADOW, *Chairman*.

Mr. Hays moved that C. B. No. 31, "An Act to amend section 261 of chapter I of the civil practice act of the territory of Montana," be referred to a special committee; motion lost.

Mr. Cullen moved that the bill be engrossed for a third reading; which motion was lost.

Mr. Lewis moved to reconsider the last action of the Council, refusing to engross the bill; and the motion prevailed:

On motion of Mr. Hays, the bill was referred to the Committee on Roads and Highways.

The following notices were given:

MR. PRESIDENT:—I give notice that I will on to-morrow, or some future day, introduce a bill for "An Act to prohibit betting on elections in the territory of Montana." ALLEBAUGH.

MR. PRESIDENT:—I will on to-morrow, or some future day during the present session, introduce a bill for "An Act to amend section 306 of the criminal practice act of Montana territory," approved January 12th, 1872. BROWN.

C. B. No. 17, to amend section 286, chapter 12, of the criminal practice act, approved January 12th, 1872 (codified statutes, page 234), was read the third time, and, on motion of Mr. Brown, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed.

Roll called—quorum present.

On motion of Mr. Lewis, Mr. McAdow was granted leave of absence for the afternoon.

C. B. No. 17, a bill to amend section 286, chapter 12, of the criminal practice act, approved January 12th, 1872 (codified statutes, page 234), was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Hays, Watson, and Mr. President—6.

Nays—Cullen, Ford, Lewis, Tatem, and Waterbury—5.

Absent—Mitchell and McAdow.

Mr. Hays moved that C. B. No. 13, "An Act to prohibit the traffic in intoxicating liquors on Sundays," be taken from the Committee of the Whole, and ordered engrossed.

The chair decided the motion out of order. Mr. Hays appealed from the decision of the chair, and the chair was sustained by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Tatem, Waterbury, and Watson—9.

Nay—Hays—1.

Absent—Mitchell and McAdow.

C. B. No. 38, "An Act to authorize the county commissioners of Gallatin county to issue bonds for the purpose of constructing a

public highway," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Tatem, Waterbury, Watson, and Mr. President—11.

Nays—None.

Absent—Mitchell and McAdow.

The title was agreed to.

The following reports were received :

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. J. M. No. 1, "An Act in relation to restoring a portion of the Crow Indian reservation to the public domain," report four copies thereof correctly enrolled.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your Joint Committee on Enrollment respectfully report that they presented to the Governor for his action, at 11:35 A. M., February 3d, 1877, C. B. No. 16, "An Act to enable the people of Bozeman to erect a school house."

Also, H. B. No. 7, "An Act to repeal an act entitled 'An Act in relation to administrators and executors,'" approved May 6th, 1873.

Also, H. B. No. 13, "An Act to amend section 31 of an act to provide for biennial elections in the territory of Montana."

Also, H. B. No. 23, "An Act with reference to the exhibit of Montana at the national exhibition."

Also, H. B. No. 24, "An Act for the relief of F. C. Deimling."

Also, H. J. R. No. 1, commemorating the death of General Geo. A. Custer.

I. I. LEWIS, *Chairman*.

HOUSE OF REPRESENTATIVES, }
February 3d, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that substitute for H. B. No. 6, "An Act in relation to live stock," and H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana," have passed the House.

That the House refuse to concur in the amendments of the Council to H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory," and respectfully ask the Council to recede therefrom.

That H. B. No. 11, "An Act to amend the criminal practice act," was indefinitely postponed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Watson moved that the Council adhere to Council amendments to H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory;" which motion prevailed.

Mr. Brown moved that the Council go into Committee of the Whole; which motion was lost.

Substitute for H. B. No. 6, "An Act in relation to live stock," was read the first and second times, and referred to Committee on Agriculture.

H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana," was read the first and second times, and referred to the Committee on Internal Improvements.

On motion of Mr. Ford, H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876, was taken from the table, and Mr. Ford moved to adopt the report of the committee thereon.

On motion of Mr. Tatem, the report was laid on the table.

On motion of Mr. Waterbury, the Council adjourned until Monday, at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

TWENTY-NINTH DAY.

COUNCIL CHAMBER,
February 5th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—absent, Mr. Mitchell.

Prayer by Rev. E. L. Toy, Chaplain.

Minutes of the twenty-seventh day read and approved.

The following communications were received :

OFFICE OF THE
SECRETARY OF MONTANA, }
February 3d, 1877. }

To the Honorable President of the Council:

Please inform the members of the Council that, in consideration of the fact, and in obedience to my instructions from the Secretary of the Treasury of the United States, that the fund appropriated for miscellaneous and incidental printing for the Tenth Legislative Assembly is nearly exhausted, I will not be able to have printed any bill for either House after Saturday next, February 10th, 1877.

I have the honor to be,

Your obedient servant,

J. E. CALLAWAY, *Secretary.*

OFFICE OF THE
SECRETARY OF MONTANA, }
February 4th, 1877. }

To the Honorable the Legislative Assembly of the Territory of Montana :

GENTLEMEN :—The undersigned, the Secretary of the territory of Montana, respectfully represents to your honorable body, that on the 27th day of January, A. D. 1871, he was commissioned and duly qualified as such officer ; that soon thereafter he assumed the

duties of said office, and since that time has been subject to all the obligations and duties, and has had, and now has, a lawful right to exercise and enjoy all of the functions, prerogatives, and privileges belonging and pertaining to said office; that when he assumed the duties of said office he received from his predecessor in office (together with other property), the seal of the territory of Montana, which said seal now is, and ever since the same came into the possession of the undersigned has been, in the possession and under the exclusive control of the undersigned, and that he now is, and ever since he has been in the discharge of the duties of said office, responsible for said territorial seal, as its custodian; that ever since he has been in the possession of said seal, the same has been recognized and used in the executive department of the territory of Montana as the great seal of said territory, until within the period of a few months last past; that within a few days last past, the undersigned has been informed that there is in existence in the territory of Montana a counterfeit of said territorial seal; and, further, that such counterfeit seal is in possession of, and has oftentimes been used within a few months last past, by an officer of this territory; that the following is an extract of an article that appeared in the editorial columns of the *Daily Independent*, published at Helena, Montana, and issued on the 4th instant, touching the subject of forged seals:

“As near as we can ascertain, there are two seals in existence. One is in the office of Secretary Callaway, and the other in the office of Governor Potts. But why has Mr. Callaway a seal, and where does he obtain his authority for getting and using one? Is the seal that he uses on public documents genuine? Is it in compliance with the law? The seal that Governor Potts uses is in strict compliance with the law of the territory, while the one used by Secretary Callaway is not.”

Also the following extract from said newspaper of the same date:

“When the territorial bonds were issued, the Governor applied to Secretary Callaway for the seal in his possession, but the latter said he was entitled to the custody of the seal, and refused to let the Governor use it.”

Inasmuch as that said extracts have appeared in public print, and in the official and personal organ of the executive of the territory, the undersigned respectfully asks that the Judiciary Committee of each House of the legislature do constitute a joint committee, or that another proper committee be appointed at once, to inquire and report both as to the law and matters of fact in the premises, for the action of the Legislative Assembly. It is covertly insinuated in said article that the territorial seal "in the office of Secretary Callaway" is a counterfeit, and does not comply with the law. If it is a *fact* that there is a counterfeit seal of the territory in existence within the territory, such *fact* should be known, and a proper remedy applied to destroy such counterfeit seal. Also, it is susceptible of proof that bonds of this territory have been issued within the past eight months, bearing the impress of a counterfeit seal, to the amount of about \$90,000, and that commissions have been issued to officers within this territory, within said period, bearing the impress of such counterfeit seal.

It is respectfully submitted whether such bonds or commissions are valid at law? Should not the legislature take the necessary steps to protect the credit of the territory, and see that the interests of the people are not put in jeopardy by the acts of officers who hold illegal commissions?

The question whether the charges and confessions in said newspaper article contained are true or false, the legislature should investigate, and the public be advised. The amplest proof is at hand to settle all the questions raised and suggested in this paper, and further, that as an act of justice to an officer and citizen of this territory, and one of sacred duty to the people, the most searching investigation in the premises should be had without delay.

Most respectfully submitted.

JAMES E. CALLAWAY, *Secretary of Montana.*

The following report was received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom referred C. B. No. 44, "An Act to regulate the election of county commissioners," also, C. B. No. 32, "An Act for the government of unorganized counties," have carefully examined said bills, and find the same correctly engrossed.

BROWN, *Chairman.*

The President announced that he was about to sign H. J. M. No. 1, in relation to restoring a portion of the Crow Indian reservation to the public domain.

The following communication was received:

MR. PRESIDENT:—Your Committee on Federal Relations have duly considered the communication of the Secretary of Montana concerning the pay and mileage of members, and have concluded that the members are entitled to receive pay from and including the first day of the session, for every day actually in attendance at this session; that the officers are entitled to pay from and including the day of their election; and that no deduction should be made from their pay because the proceedings of the Council were such that no labor was provided for them in the first days of the session; but having been elected, and having accepted the position, it was no neglect of theirs that duties were not provided for them to perform. Your committee, therefore, offer the following resolution:

Resolved, That the Chief Clerk, in making out the pay-roll, be instructed to credit each member with every day actually in attendance from and including the first day of the session, and every officer with every day from and including the day of his election.

Respectfully submitted,

BROWN, *Chairman*.

On motion of Mr. Ford, the report and resolution were adopted.

Mr. Brown introduced C. B. No. 45, "An Act to amend section 306 of the criminal practice act of Montana territory," approved January 12th, 1872; was read the first and second times, and referred to the Judiciary Committee.

Mr. Allebaugh introduced C. B. No. 46, "An Act to prohibit betting upon elections in the territory of Montana;" was read the first and second times, and referred to the Committee on Elections.

On motion of Mr. Brown, a call of the House was ordered.

Roll called—absent, Messrs. Mitchell and Waterbury.

Mr. Waterbury appeared in his seat, and, on motion, the further proceedings under the call were dispensed with.

C. B. No. 44, "An Act to regulate the election of county commissioners," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Mitchell.

Title agreed to.

On motion of Mr. McAdow, C. B. No. 32, "An Act for the government of unorganized counties," was referred to the Committee on Elections.

The Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

On motion of Mr. Ford, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M. — Council resumed — Mr. President in the chair.

Roll called—quorum present.

MR. PRESIDENT:—Your committee to whom was referred substitute for H. B. No. 6, "An Act in relation to live stock," have had the same under consideration, and beg leave to report the substitute back to the Council, and recommend that it be referred to the Committee of the Whole.

FORD.

HAYS.

TATEM.

Bill reported was referred to Committee of the Whole.

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was referred H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana," respectfully report the same back to the Council, recommending the passage thereof.

LEWIS.

McADOW.

HOUSE OF REPRESENTATIVES, }
February 5th, 1877. }

MR. PRESIDENT:—I am directed to inform your honorable body that H. B. No. 16, "An Act in relation to the territorial library," has passed the House.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 16, "An Act in relation to the territorial library," was read the first and second times, and referred to the Committee on Education and Labor.

HOUSE OF REPRESENTATIVES, }
February 5th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that Mr. Sanders introduced H. B. No. 53, "An Act concerning corporations."

That H. B. No. 1, "An Act to establish and maintain an insane asylum, and otherwise provide for the insane of the territory of Montana," also, H. B. No. 17, "An Act to provide for the taxation of a jury fee in civil cases in the courts of this territory," have passed the House, and are herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 17, "An Act to provide for the taxation of a jury fee in civil cases in courts of this territory," was read first and second times, and referred to the Judiciary Committee.

H. B. No. 1, "An Act to establish and maintain a hospital for the insane, and otherwise provide for the insane of the territory," was read first and second times, and, on motion of Mr. Brown, referred to the Committee of the Whole.

HOUSE OF REPRESENTATIVES, }
February 5th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that the House has concurred in Council amendments to H. B. No. 18, "An Act relating to certain powers and duties of the county commissioners of Gallatin county."

That the House adhere to their refusal to concur in Council amendments to H. B. No. 33, "An Act to provide for publishing the reports of the supreme court," and have appointed W. F. Sanders, Word, and J. G. Sanders a committee of conference, and respectfully ask the Council to appoint a like committee.

That H. B. No. 26, "An Act to amend an act to provide for biennial elections in the territory of Montana," has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Cullen, Messrs. Cullen, Watson, and Ford were appointed as a committee of conference on the part of the Council on H. B. No. 33, "An Act to provide for publishing the reports of the supreme court."

H. B. No. 26, a bill for "An Act to amend an act to provide for biennial elections in the territory of Montana," was read first and second times, and referred to the Committee on Elections.

C. B. No. 47, a bill for "An Act to establish names to certain streams in Deer Lodge county," was read first and second times, and, on motion of Mr. Brown, the rules were suspended, the bill considered engrossed, read third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Mitchell.

Title agreed to.

Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

Mr. Mitchell appeared and took his seat.

The Committee of the Whole reported as follows:

MR. PRESIDENT:—The Committee of the Whole, to whom was referred the following bills, have directed me to report as follows:

Upon C. B. No. 13, "An Act to prohibit the traffic in intoxicating liquors on Sundays," with the substitute therefor, and its amendments, they recommend its indefinite postponement.

Upon C. B. No. 26, "An Act concerning apprentices," they report the following amendments:

Section 1, line 8, erase "twenty," and insert "eighteen;" line 9, erase "eighteen," and insert "sixteen."

Section 2, line 6, erase "twenty," and insert "eighteen."

Section 4, line 4, erase "six," and insert "twelve;" line 7, erase "eighteen," and insert "sixteen."

Section 6, line 12, erase "twenty," and insert "eighteen;" line 14, erase "eighteen," and insert "sixteen."

Section 10, line 8, strike out all after the word "reasonable," to the end of said section.

Section 12, line 1, after the word "shall," insert "wilfully and knowingly."

Section 13 to be stricken out entire.

Section 14 to be renumbered "section 13;" section 15 to be renumbered "section 14."

With these amendments, they recommend its passage.

Upon substitute for H. B. No. 6, "An Act in relation to live stock," they report the following amendments:

Section 3, line 4, erase the word "as."

Section 4, strike out entire section, and insert in lieu thereof, as section 4: "All fines collected under the provisions of this act shall be paid into the common school fund of the county where such offense was committed."

With these amendments, they recommend its passage.

Upon H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge," they recommend its passage, with the amendments reported by the Committee on Federal Relations.

Very respectfully,

B. H. TATEM, *Chairman.*

H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Mr. President—12.

Nays—Watson—1.

Title agreed to.

On motion of Mr. Brown, H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana," was referred to the Committee of the Whole.

Mr. Hays moved to not adopt the report of the Committee of the Whole on C. B. No. 13, "An Act to prohibit the traffic in intoxicating liquors on Sundays."

Mr. Mitchell moved to lay the motion on the table; which motion prevailed by the following vote:

Ayes—Brown, Constans, Cullen, Ford, Mitchell, McAdow, Waterbury, and Watson—8.

Nays—Allebaugh, Hays, Lewis, Tatem, and Mr. President—5.

Mr. Tatem moved to reject the report of the Committee of the Whole on H. B. No. 6, "An Act in relation to live stock;" which motion was lost by the following vote:

Ayes—Brown, Mitchell, Tatem, Waterbury, and Watson—5.

Nays—Allebaugh, Constans, Cullen, Ford, Hays, Lewis, McAdow, and Mr. President—8.

Mr. Cullen moved that the report be adopted; which motion prevailed, and the amendments were ordered engrossed for third reading.

Mr. Watson moved to adopt the report of the Committee of the Whole on C. B. No. 13, "An Act to prohibit the traffic in intoxicating liquors on Sundays;" which motion prevailed by the following vote:

Ayes—Brown, Constans, Cullen, Ford, Mitchell, McAdow, Waterbury, and Watson—8.

Nays—Allebaugh, Hays, Lewis, Tatem, and Mr. President—5.

And the bill was indefinitely postponed.

Mr. Cullen moved that the report of the Committee of the Whole on the other two bills be adopted; which motion prevailed, and the Council Bill and the amendments to the House Bill were ordered engrossed.

Mr. Waterbury moved to adjourn. Lost.

Mr. Watson moved to go into executive session; which prevailed, and the Council went into executive session.

Council resumed—doors opened.

The Clerk was instructed to enter on the journal that the Council, in executive session, confirmed the following nominations of the Governor for notaries public, to-wit:

Robert P. Vivion, of Gallatin county.

William R. Reel, of Madison county.

Oliver C. Mortson, of Lewis and Clarke county.

Mr. Tatem moved to adjourn. Lost.

Mr. Hays moved a call of the House. Lost.

On motion of Mr. Watson, the Council adjourned.

HARRY R. COMLY, *Chief Clerk.*

THIRTIETH DAY.

COUNCIL CHAMBER, }
February 6th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

The following reports were received :

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 17, "An Act to provide for the taxation of a jury fee in civil cases in courts of this territory," have instructed me to report the same back to the Council, and recommend that it be indefinitely postponed.

W. E. CULLEN, *Chairman*.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 39, "An Act to amend section 147 of the criminal laws," have duly considered the same, and have instructed me to report the same back to the Council, and recommend that it do pass.

W. E. CULLEN, *Chairman*.

Bill ordered to third reading.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 45, "An Act to amend section 306 of the criminal practice act," have instructed me to report said bill back, and recommend its passage.

W. E. CULLEN, *Chairman*.

Bill ordered engrossed.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 43, entitled "An Act to create a good time law

for the convicts of the territorial penitentiary," have instructed me to report the same back, with the recommendation that the same do pass.

W. E. CULLEN, *Chairman*.

Bill ordered engrossed.

MR. PRESIDENT:—Your Committee on Roads and Highways, to whom was referred C. B. No. 31, entitled "An Act to amend section 261 of chapter 1 of the civil practice act of the territory of Montana," would respectfully recommend that the bill do pass with the following amendment:

Strike out all after the enacting clause, and insert:

Section 1. That section 261 of "An Act to regulate proceedings in civil cases in the courts of justice of the territory of Montana," approved January 12th, 1872, be amended so as to read as follows: "Section 261. A homestead, consisting of any quantity of land not exceeding one hundred and sixty acres, used for agricultural purposes, to be selected by the owner thereof, and not included in any town plat, city, or village, also, the buildings thereon of the value of five thousand dollars; or, instead thereof, at the option of the owner, a quantity of land not exceeding in amount one-fourth of an acre, being within a town plat, city, or village, and in addition thereto the dwelling house thereon, and its appurtenances, of the value of five thousand dollars, owned and occupied by any resident of this territory, shall not be subject to forced sale on execution, or any other final process from a court.

Section 2. All acts and parts of acts conflicting with this act are hereby repealed.

Section 3. This act shall take effect from and after its passage.

HAYS.

ALLEBAUGH.

On motion of Mr. Lewis, the amendments reported were adopted, and the bill ordered engrossed.

MR. PRESIDENT:—Your special committee to whom was referred H. B. No. 40, "An Act defining the boundaries of Chouteau coun-

ty," have had the same under consideration, and respectfully report said bill back to the Council without recommendation.

FORD, *Chairman.*

MR. PRESIDENT:—Your Committee on Education and Labor, to whom was referred H. B. No. 16, "An Act in relation to the territorial library," would report the same back to the Council, and recommend its passage, without amendment.

Very respectfully,

B. H. TATEM,

P. CONSTANS,

Majority Com. on Education and Labor.

MR. PRESIDENT:—A minority of your Committee on Education, to whom was referred C. B. No. 16, "An Act in relation to the territorial library," have had the same under consideration, and report the same back to the Council, and recommend the following amendment:

In section 6, strike out "clerk of the supreme court, wherever it occurs, and insert "Territorial Auditor;" also, in line 11, section 6, strike out all after the the word "territory." McADOW.

Mr. Hays moved to adopt the minority report.

Mr. Tatem moved to amend by adopting the majority report; and the majority report was adopted, and the bill ordered to a third reading.

The select committee on C. B. No. 18, "An Act to secure railroad communication to the people of Montana," reported the bill with amendments; and the bill and report, on motion of Mr. Mitchell, was referred to the Committee on Internal Improvements.

Mr. Tatem reported as follows:

MR. PRESIDENT:—Your committee to whom was recommitted H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad," have directed me to report the same back to the Council, shorn of its amendments, and without recommendation.

Very respectfully,

B. H. TATEM, *Chairman.*

Mr. Cullen moved to adopt the report.

Mr. Waterbury moved to recommit to select committee.

Mr. Waterbury moved a call of the House. Carried.

Mr. Tatem moved proceedings under call be dispensed with. Carried.

The motion to commit to a select committee prevailed by the following vote:

Ayes—Allebaugh, Brown, Lewis, Mitchell, McAdow, Waterbury, and Watson—7.

Nays—Constans, Cullen, Ford, Hays, Tatem, and Mr. President—6.

And the bill was referred to Messrs. Ford, Cullen, and Tatem.

Mr. Brown moved to add two names to the committee; which motion prevailed, and Messrs. Brown and Watson were added.

The following reports were received:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 33, entitled "An Act concerning divorce," have instructed me to report the following amendments, to-wit:

In section 12, line 15, strike out the words "of her dower," and insert "of the amount thereof allowed her by law," and also in the line next to the last, strike out the words "of her dower," and insert "of the amount allowed her by law."

With these amendments, your committee recommend the passage of the bill.

W. E. CULLEN, *Chairman*.

On motion of Mr. Watson, the amendments reported were adopted, and bill ordered engrossed.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 29, "An Act in relation to married women," have instructed me to report the following amendments, to-wit:

In lines 4 and 5, section 1, strike out the words, "and the rents, issues, profits, and proceeds thereof;" also in line 10, same section, strike out "pin," and insert "pocket."

In section 7, line 2, strike out "a," and insert "the," and after the word "will," insert the words "of the husband."

And with these amendments, your committee recommend the passage of the bill.

W. E. CULLEN, *Chairman*.

On motion of Mr. Watson, the amendments reported were adopted, and the bill ordered engrossed.

The following notices were given:

MR. PRESIDENT:—I will on to-morrow, or some future day introduce a bill entitled "An Act to secure to the people of Montana territory a railroad from Fort Benton, Montana territory, to Franklin or Ogden, Utah.

FORD.

MR. PRESIDENT:—I will on to-morrow, or some future day, during the present session, introduce a bill for "An Act to tax dogs."

BROWN.

— Substitute for H. B. No. 6, "An Act in relation to live stock," was read third time, and passed by the following vote:

Ayes—Allebaugh, Cullen, Ford, Hays, Lewis, McAdow, Tatem, and Mr. President—8.

Nays—Brown, Constans, Mitchell, Waterbury, and Watson—5.

Title agreed to.

Mr. McAdow moved to reconsider the vote by which the bill passed.

Mr. Hays moved to lay the motion to reconsider on the table; which prevailed by the following vote:

Ayes—Allebaugh, Cullen, Ford, Hays, Lewis, McAdow, and Mr. President—7.

Nays—Brown, Constans, Mitchell, Tatem, Waterbury, and Watson—6.

On motion of Mr. Hays, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

H. B. No. 16, "An Act relative to the territorial library," was read the third time, and, on motion of Mr. Tatem, a call of the House was ordered.

Roll called—absent, Mr. Cullen.

The Sergeant-at-Arms was directed to bring in the absentee.

Mr. Cullen appeared in his seat.

On motion of Mr. Waterbury, further proceedings under the call were dispensed with, and the bill passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Lewis, Mitchell, Tatem, Waterbury, and Mr. President—9.

Nays—Ford, Hays, McAdow, and Watson—4.

Title agreed to.

H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

Mr. Lewis reported as follows:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. J. M. No. 2, for the establishment of a

branch mint at Helena, Montana, respectfully report four copies of the same correctly enrolled.

LEWIS, *Chairman*.

Mr. President announced that he was about to sign H. J. M. No. 2, for the establishment of a branch mint at Helena, Montana—four copies.

H. B. No. 39, "An Act to amend section 147 of the criminal laws," approved January 12th, 1872 (codified statutes), was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

The following reports were received:

MR. PRESIDENT:—Your committee to whom was referred H. B. No. 30, entitled "An Act to provide compensation of J. C. Kerley, Hugh McQuaid, and others, for printing," would respectfully report the same back, with the recommendation that the same do pass.

WATERBURY.

FORD.

ALLEBAUGH.

MR. PRESIDENT:—Your Committee on Elections, to whom was referred C. B. No. 32, "An Act to govern unorganized counties," would respectfully refer the same back to the Council, and recommend its passage.

ALLEBAUGH, *Chairman*.

MCADOW.

MR. PRESIDENT:—Your committee to whom was referred H. B. No. 21, a bill for "An Act to amend an act in relation to brands and marks," have had the same under consideration, and would respectfully report said bill back to the Council, and recommend its passage.

FORD.

HAYS.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary," find the same correctly engrossed.

BROWN.

FORD.

HAYS.

MR. PRESIDENT:—The majority of your special committee to whom was referred H. B. No. 4, "An Act to amend an act to authorize the counties interested to assist in building a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena, Montana territory," approved February 11th, 1876, have had the same under consideration, and would respectfully report the same back to the Council, shorn of its amendments, and recommend its passage.

FORD.

CULLEN.

TATEM.

Mr. Brown moved to lay the report on the table until to-morrow morning at 11 o'clock; which motion was lost by the following vote:

Ayes—Allebaugh, Brown, Mitchell, McAdow, Waterbury, and Watson—6.

Nays—Constans, Cullen, Ford, Hays, Lewis, Tatem, and Mr. President—7.

Mr. Tatem moved to adopt the report; which motion prevailed by the following vote:

Ayes—Constans, Cullen, Ford, Hays, Lewis, Tatem, and Mr. President—7.

Nays—Allebaugh, Brown, Mitchell, McAdow, Waterbury, and Watson—6.

The following report was received:

MR. PRESIDENT:—Your Committee on Elections, to whom was referred C. B. No. 40, "An Act to define the duties of assessors,"

have had the same under consideration, and would report the same back to the Council, and recommend its passage.

ALLEBAUGH, *Chairman*.

McADOW.

BROWN.

Bill ordered engrossed.

•H. B. No. 21, "An Act to amend an act in relation to brands and marks," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

H. B. No. 30, "An Act to provide compensation of J. C. Kerley, Hugh McQuaid, and L. F. Lacroix, for printing," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

Mr. Watson offered the following amendment to H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad:—"

Add to the end of section 9: "All railroads constructed with the same width of track, within this territory, shall have the privilege with its road to intersect and connect with or cross the road herein provided for, and shall receive and transport each other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination."

On motion of Mr. Watson, the amendment was adopted and ordered engrossed.

The following report was received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 26, "An Act concerning apprentices," having carefully examined the same, find the same correctly engrossed.

BROWN.

FORD.

HAYS.

C. B. No. 32, "An Act for the government of unorganized counties," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary," was read partially, and, on motion of Mr. Mitchell, the rules were suspended, the bill read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to. *

On motion of Mr. Mitchell, Mr. Watson obtained leave of absence for the balance of the afternoon.

On motion, the Council adjourned until 10 o'clock to-morrow morning.

HARRY R. COMLY, *Chief Clerk.*

THIRTY-FIRST DAY.

COUNCIL CHAMBER, }
February 7th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

Mr. Watson presented a petition asking that the Utah Northern Extension Railroad bill be submitted to the people.

Mr. Mitchell presented a like petition; and they were referred to the Committee on Internal Improvements.

The following reports were received:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 46, "An Act to prohibit betting on elections in the territory of Montana," beg leave to report that we have had the bill under consideration, and report the bill back without recommendation.

ALLEBAUGH, *Chairman*.

MR. PRESIDENT:—Your Committee on Elections, to whom was referred H. B. No. 26, a bill for "An Act to provide for biennial elections in the territory of Montana," have had the same under consideration, and recommend that the bill do pass.

ALLEBAUGH, *Chairman*.

MR. PRESIDENT:—The majority of your Committee on Judiciary, to whom was referred the communication of the Secretary relative to the territorial seal, beg leave to introduce the accompanying bill, entitled "An Act in relation to the territorial seal," and recommend its passage, as their report thereon.

B. H. TATEM.
A. A. BROWN.
I. I. LEWIS.

MR. PRESIDENT:—A minority of your Committee on Judiciary, to whom was referred the communication of the Secretary relative to the territorial seal, beg leave to say that while we heartily concur in the main features of the bill reported by the majority of the committee, we are yet of opinion that the seal in the possession of the Governor should be adopted for the reasons following, to-wit:

1. While neither of said seals conforms exactly to the requirements of the joint resolution in relation to the territorial seal, approved February 9th, 1865, the seal in the possession of the Governor is nearest in conformity with said resolution.

2. It is new and makes a clearer impression than the old one.

3. The seal in possession of the Governor is the one with which the territorial bonds were impressed, and the adoption of the other seal might possibly have a tendency to depreciate those securities.

W. E. CULLEN.

T. WATSON.

On motion of Mr. McAdow, the majority and minority reports were tabled.

The following reports were received:

MR. PRESIDENT:—Your Committee on Enrollment, to whom was referred H. B. No. 18, "An Act defining the powers and duties of the board of county commissioners of Gallatin county in certain cases," respectfully report the same correctly enrolled.

LEWIS, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 40, "An Act to define the duties of assessors," have carefully examined the same, and find said bill correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 29, "An Act in relation to married women," have had the same under consideration, and find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 45, "An Act to amend section 306 of the criminal practice act of Montana territory," approved January 12th, 1872, have examined the said bill, and find the same correctly engrossed.

BROWN, *Chairman*.

Mr. Lewis offered the following, and moved its adoption:

WHEREAS, The House of Representatives have at least twenty Council Bills upon which action is continually delayed, holding the said Council Bills until the last days of the session, when, if finally passed, it will be next to an impossibility to get them enrolled and presented to the Governor; therefore, be it

Resolved, That the Council do not consider any more House Bills of a general nature until the House shows a disposition to take action upon said Council Bills.

LEWIS.

And the resolution was adopted by the following vote:

Ayes—Allebaugh, Brown, Constans, Hays, Lewis, McAdow, and Tatem—7.

Nays—Cullen, Ford, Mitchell, Waterbury, Watson, and Mr. President—6.

Mr. Tatem moved to reconsider.

Mr. Brown moved to lay the motion to reconsider on the table; which motion was lost by the following vote:

Ayes—Brown, Hays, Lewis, and McAdow—4.

Nays—Allebaugh, Constans, Cullen, Ford, Mitchell, Tatem, Waterbury, Watson, and Mr. President—9.

And the motion to reconsider prevailed.

On motion of Mr. Cullen, the resolution was laid on the table.

The following reports were received:

MR. PRESIDENT:—The committee of conference on H. B. No. 33, "An Act in relation to the publication of the reports of the

supreme court," beg leave to report that the committee of the House agreed to concur in Council amendments.

W. E. CULLEN.

WATSON.

MR. PRESIDENT:—Your special committee to whom was referred C. B. No. 42, "An Act to provide for the custody, maintenance, and treatment of the insane," have had the same under consideration, and would respectfully report said bill back to the Council, and recommend that it be referred to the Committee of the Whole, together with the accompanying document from Sister Josephine, of St. John's Hospital.

R. S. FORD.

A. H. MITCHELL.

E. B. WATERBURY.

On motion, the report was adopted.

On motion of Mr. Cullen, the reports relative to the great seal were taken from the table.

Mr. Cullen moved to adopt the minority report.

Mr. Tatem moved to amend by adopting the majority report; which motion prevailed.

C. B. No. 48, "An Act in relation to the territorial seal," was read the first and second times, and, on motion of Mr. Mitchell, the rules were suspended, the bill considered engrossed, read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Cullen.

Title agreed to.

Mr. Brown introduced the following resolution:

Resolved, That a committee of three be appointed by the President of the Council, whose duty it shall be to ascertain the number

and title of Council Bills that have been detained in the House ten days and over, and report the same to the Council as soon as convenient.

BROWN.

On motion of Mr. Mitchell, the resolution was adopted, and the chair appointed Messrs. Brown, Lewis, and Watson as such committee.

Mr. Brown offered the following amendment to H. B. No. 4:

In section 2, line 14 (written copy), after "tax-payer," insert "upon real or personal property."

On motion, the amendment was adopted.

Mr. Tatem offered the following amendment, which was adopted:

Amend section 3, line next to the last, by inserting after the word "as," the words "February 1st."

On motion of Mr. Tatem, the amendments were ordered engrossed, and the bill ordered to a third reading.

H. B. No. 26, "An Act to provide for biennial elections in Montana," was read the third time, and lost by the following vote:

Ayes—Allebaugh, Constans, Ford, Lewis, and Mr. President—5.

Nays—Brown, Hays, Mitchell McAdow, Tatem, Waterbury, and Watson—7.

Absent—Mr. Cullen.

On motion of Mr. Hays, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M. — Council resumed—Mr. President in the chair.

Roll called—quorum present.

The following telegraphic dispatches were read, and, on motion of Mr. Brown, referred to the Committee on Internal Improvements:

HELENA, January 30th, 1877.

Geo. Stark, Vice President Northern Pacific Railroad, New York:

Bill provides: commence at mouth of Hig Horn, or above, run 300 miles westerly; subsidy direct gift—five thousand dollars per mile, in 7 per cent 25-year bonds, interest annually, payable as follows: On completion of each twenty of first hundred miles, \$60,000, and \$100,000 on completion of first hundred miles; on completion of each twenty miles of second hundred miles, \$60,000, and \$150,000 on completion of second hundred miles; on completion of each twenty miles of third hundred miles, \$100,000, and on completion of third hundred miles, \$150,000. Must accept by June 1st, 1877; commence work, August 15th, 1877; complete, August 15th, 1880.

W. E. BASS.

NEW YORK, January 31, 1877.

W. E. Bass, President of Council:

Executive committee meet next Tuesday; will communicate their action.

GEO. STARK, *Vice President.*

NEW YORK, February 6th, 1877.

W. E. Bass, President of Council:

The executive committee of the Northern Pacific Railroad, now in session, agree to the proposed bill in aid of construction of three hundred miles of road from the mouth of the Big Horn west, as stated in your synopsis telegraphed to me January 30th, with the following modifications: All the bonds for the three hundred miles to be placed in escrow in New York, or some other eastern city, before the commencement of work, and to be delivered as the work progresses, in accordance with provisions of the bill; interest to be payable in the city of New York, semi-annually, computing from time of each delivery; the work of construction to be commenced within sixty days after the bonds are deposited, but not earlier than August 15th, next.

GEO. STARK,

Vice President Northern Pacific Railroad.

Mr. Brown reported as follows:

MR. PRESIDENT:—Your Committee on Engrossment, to whom

was referred C. B. No. 33, "An Act concerning divorce," have carefully examined the same, and find the same correctly engrossed.

BROWN, *Chairman*.

On motion of Mr. McAdow, the Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

Mr. Lewis reported as follows:

—MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876; also, H. B. No. 6, "An Act in relation to live stock;" also, H. B. No. 39, "An Act to amend section 147 of the criminal laws," beg leave to report the same correctly enrolled.

I. I. LEWIS, *Chairman*.

Mr. Waterbury gave notice:

MR. PRESIDENT:—I hereby give notice that I will on to-morrow, or at an early day thereafter, introduce a bill for "An Act authorizing the county commissioners of Deer Lodge county to perform certain duties."

WATERBURY.

The following report was received:

MR. PRESIDENT:—Your chairman of the Committee of the Whole would respectfully make the following report:

C. B. No. 21, was, on motion, when the committee rose, ordered referred to a select committee of three, to be appointed by the President.

The following amendments to C. B. No. 22 are recommended:

In section 1, after the word "woolen," insert "soap and candles, or match."

In section 2, strike out "woolen," in first line; after the word "embrace," in line 3, strike out to the word "all," in line 9.

Section 3 was adopted.

On motion, C. B. No. 22 was recommended to be recommitted to its appropriate committee.

On motion, C. B. No. 42 was ordered referred to Committee on Internal Improvements.

Moved and seconded that when the committee rise, the chairman report H. B. No. 1 back to the Council, recommending its passage.

McADOW, *Chairman*.

That part of the report relating to C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county," was adopted, and the President appointed Messrs. Hays, Cullen, and Lewis a committee to whom the bill was referred.

On motion of Mr. Lewis, H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana," was referred to the Committee on Internal Improvements.

On motion of Mr. Mitchell, H. B. No. 1, "An Act to establish an insane asylum, and otherwise provide for the insane of the territory," was referred to a special committee of three, consisting of Messrs. Mitchell, Watson, and Ford.

C. B. No. 42, "An Act to provide for the custody, maintenance, and treatment of the insane," was referred to the Committee on Internal Improvements.

Mr. Brown reported as follows:

MR. PRESIDENT:—Your special committee, composed of one member of the Council from each county, to whom was referred H. B. No. 14, a bill for "An Act re-apportioning the members of the Legislative Assembly," having carefully considered the same, beg leave to report the same back to the Council with the recommendation that the same do pass.

BROWN, *Chairman*.

A call of the House was ordered.

Roll called—absent, Cullen and Waterbury.

Mr. Cullen appeared in his seat.

On motion, further proceedings under the call were dispensed with.

H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad," was taken up, and, on motion, the rules were suspended, bill read third time by title, and passed, as amended, by the following vote:

Ayes—Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, Tatem, Watson, and Mr. President—10.

Nays—Allebaugh and McAdow—2.

Absent—Mr. Waterbury.

Title agreed to.

C. B. No. 26, "An Act concerning apprentices," was taken up, and, on motion of Mr. Mitchell, the rules were suspended, read third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Waterbury.

Title agreed to.

C. B. No. 29, "An Act in relation to married women," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, McAdow, Tatem, Watson, and Mr. President—10.

Nays—Ford, Mitchell, and Waterbury—3.

The title was agreed to.

C. B. No. 33, "An Act concerning divorce," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—Ford—1.

Title agreed to.

C. B. No. 40, "An Act to define the duties of assessors," on motion of Mr. Waterbury, was referred to a select committee of Messrs. Waterbury, Mitchell, and Tatem.

C. B. No. 45, "An Act to amend section 306 of the criminal practice act of Montana territory," approved January 12th, 1872, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

On motion of Mr. Ford, the Council adjourned until 10 A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk*.

THIRTY-SECOND DAY.

COUNCIL CHAMBER, }
February 8th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

The following report was received:

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was referred C. B. No. 18, "An Act to secure railroad communication to the people of Montana," report the bill back with the following amendments:

Section 1. In line 10, between the words "thousand" and "dollars," insert the words "five hundred."

Section 2. In line 8, strike out the words "nearest" and "and." In line 9, insert between the words "most" and "practicable" the word "direct." Also, strike out the words "by the way of the Big Hole river, to the mouth of White Tail Deer creek," and insert in lieu thereof the words, "to a point as far north as the mouth of Pipestone creek, on the west side of Jefferson river."

Section 10. In line 10, strike out "whose par value shall equal the par value of the," and insert in lieu thereof the words "bearing interest at the rate of seven per centum per annum, equal in."

Add to section 11 as follows: "In lieu, however, of the guarantee by deposit of first mortgage bonds, as provided in this and the preceding sections of this act, it shall be lawful (in case such guarantee cannot be secured) for the board of railroad commissioners, in their option, to provide in said contract, that upon the first section of twenty miles of railroad completed, there shall be a drawback of not less than twenty per cent, and upon each subsequent section of twenty miles a drawback of not less than fifteen per cent of the aid granted herein to construct such sections respectively, to be retained by the territory as a guarantee for the final completion of such road. The territorial bonds representing the amount of drawback upon each and every section of twenty miles of completed railroad, shall not be signed nor issued nor bear interest until the final completion of said railroad between its termini aforesaid. Upon the final completion and acceptance of the railroad, the amount of bonds representing the aggregate amount of drawback aforesaid, shall be issued in the same manner as in this act provided for the issuance of bonds other than those representing such drawback. In case the railroad shall not be finally completed as in this act provided, such drawback shall be forfeited to the territory."

Add to section 12 as follows: "As an additional provision for the payment of the interest annually accruing upon said bonds and for the creation of a sinking fund for the reduction of the principal sum thereof, as aforesaid, the corporation, association, or company contracting to build the railroad aforesaid, shall pay into the territorial treasury, for the purposes aforesaid, semi-annually, on the

first days of January and July, respectively, and until final payment of the principal of said bonds, or the creation of a sinking fund adequate to secure such payment at the maturity of such bonds, for each passenger transported over any portion of said railroad constructed within the limits of the territory, the sum of one-half of one cent for each mile such passenger shall be transported, and for each ton of ore or bullion the sum of one cent per mile for each mile the same shall be so transported."

Add to bill, as section 14, the following :

"Section 14. That nothing herein contained shall prevent the said corporation from building, if they elect, an independent line of railroad from the town of Ogden, in the territory of Utah, immediately or ultimately ; but the provisions of this act shall only apply to such portions of said road as shall be constructed from a point north of an east and west line running through the said town of Ogden ; but if said persons, association, or corporation shall not construct said railroad from Ogden to Franklin, they shall obtain possession of and attach to the road herein provided for, and as a part thereof, the Utah Northern Railroad, and the same shall be operated from said northern terminus in Montana to Ogden as a single road, and with only one rate of freight for each class of freight transported on the entire line of said railroad."

Add the following as sections 15, 16, and 17 :

"Section 15. The county commissioners of the several counties shall give notice of the election herein provided for by publication in one or more newspapers published within such county, at least ten days before such election, or, if no newspaper be published therein, the same shall be published in one or more newspapers published in the territory most likely to give general notice ; and they shall, at their March session, 1877, or, if not then, they shall convene forthwith thereafter, and they, or a majority of them, shall cause proper poll books to be distributed and provided for the holding of such election ; but the failure of the county commissioners in any county or counties to give said notice shall not be held to invalidate the said election, but the same is hereby appointed to be held on the 10th day of April, 1877, between the hours of 8 o'clock A. M. and 6 o'clock P. M., and all general and special laws applicable to the

conduct of general elections, not inconsistent herewith, shall be applicable thereto. -

"Section 16. The votes that are cast upon the proposition herein contained, after abstracts of the same shall have been made by the county commissioners of the several counties, and such abstracts shall have been forwarded to the auditor as aforesaid, shall be canvassed in the same manner that the vote for delegate to Congress is canvassed under the existing laws. Those votes cast which read "North and South Railroad Aid—Yes," shall be held and interpreted to be an approval of this act, and those votes which read "North and South Railroad Aid—No," shall be held and deemed to be a disapproval of this act, and the said votes cast hereon shall be counted and canvassed accordingly.

"Section 17. At the election herein provided for, the ballots or votes shall contain the words "North and South Railroad Aid—Yes," or "North and South Railroad Aid—No," and the same rules, regulations, liabilities, and penalties prescribed for the conduct of other elections and liability of officers thereof and electors within this territory, shall be observed and enforced at the election herein provided for; and the judges at such election shall truly certify and forward the result of such election, together with the poll books and ballots so cast, to the board of county commissioners, to the county seat of said county, within two days after the same shall have been counted and certified; and the county commissioners shall within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such election, to the Auditor of the territory; and upon the failure upon the part of any officer or officers herein named, to perform the duties prescribed by this act, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine not less than \$5,000 nor exceeding \$10,000, and be imprisoned in the county jail not less than six nor more than ten months."

Add the following as sections 18, 19, and 20:

"Section 18. If a majority of the votes cast upon the question hereby submitted shall be in approval of this act in the manner and form provided in section 17, it shall be the duty of the Governor of the territory to announce such fact by proclamation, to be pub-

lished in one or more newspapers published in the territory, and thenceforward this act shall be a contract of binding force upon the territory of Montana, and also upon the corporation or association of individuals accepting the same as herein provided, for the fulfillment of which contract in every particular on its part, the good faith and credit of the people of Montana territory is pledged.

“Section 19. That in case this act shall be ratified and confirmed by the electors of this territory in the manner herein provided, and the said corporation shall signify its or their acceptance of the terms of this act as herein provided, the said corporation shall construct and fully equip with all necessary rolling stock, at least one hundred miles of said road before the first day of January, A. D. 1878; and in case of failure so to do, all right of such corporation under the provisions of this act shall be deemed and held forfeited, and it shall have no further claim upon this territory for any bonds herein provided for; and if any one year shall thereafter elapse without one hundred additional miles thereof shall be completed and equipped, or if the said road shall not be wholly completed to its northern terminus before July 1, 1880, then and in that case the territory shall be absolved from all liability to deliver said bonds not delivered at the time such failure shall take place; and said times limited shall be deemed of the essence of this contract.

“Section 20. Any county or incorporated city desiring to bridge, grade, and furnish ties for a branch of said road, may, by the duly qualified electors thereof, contribute thereto, upon the proposition and conditional contract entered into therefor, not exceeding \$2,000 per mile of the distance; which contract shall be made by the city council, if of an incorporated city, and by the board of county commissioners, if of a county; which contracts shall be of no validity unless ratified in the manner provided by such council or board of county commissioners, by the electors of said city or county, and the method of such submission shall, as near as may be practicable, be the same as is provided in this act for the submission hereof; and the duties of county and election officers, as is herein provided, and all the laws applicable to general elections, shall be as applicable to election officers of an incorporated city or of a county on such elections as they are to a general election aforesaid,

and all the penalties and restrictions thereby imposed shall be applicable to such elections."

Add to section 7 as follows: "The board, in making the contract aforesaid, shall secure to the territory all the advantages, guarantees, and safeguards provided in this act without departing in any way therefrom, except when this act allows them optional powers, and shall also secure to the territory by such contract such other advantages, guarantees, and safeguards with reference to the completion of the road, its continuous operation at all times of the year, and the creation of a sinking fund for the payment of the principal and interest of the bonds hereinbefore mentioned, as shall be practicable. The board shall stipulate in such contract that such railroad shall be constructed to its northern terminus aforesaid, independent of the number of miles from its southern to its northern terminus, and shall also provide that the corporation, association, or company constructing, as aforesaid, shall within a reasonable time (to be agreed upon and specified in the contract), survey and locate the line of its road between the termini aforesaid; a map of such line shall immediately upon such location be filed in the office of the Territorial Auditor as a public record."

Add the following as section 21:

"Section 21. All railroads constructed with the same width of track within this territory, shall have the privilege of intersecting and connecting or crossing the road herein provided for, and shall receive and transport each other's passengers, tonnage, and cars, loaded or unloaded, without delay or discrimination."

Add the following as section 22:

"Section 22. Should this act not be approved by a vote of the people of the territory, on the submission thereof as hereinbefore provided, then this act shall be null and void, and of no force whatever.

And so amended, we recommend that the bill do pass.

MITCHELL.

McADOW.

LEWIS.

On motion of Mr. Mitchell, the amendments reported were adopted.

Mr. Ford offered the following amendments:

In section 1, line 7, strike out "\$1,500,000," and insert "\$1,700,000."

In section 2, line 3, after the word "route," insert "by the way of the mouth of the White Tail Deer Creek, to the city of Helena."

Mr. Constans moved its adoption.

Mr. Lewis offered the following amendment, and moved its adoption:

In lieu of the second part of the amendment, insert: "to a point as far north as the town of Helena, in the territory of Montana;" which was lost.

Mr. Ford's amendment was lost by the following vote:

Ayes—Constans, Cullen, Ford, Lewis, and Mr. President—5.

Nays—Allebaugh, Brown, Hays, Mitchell, McAdow, Waterbury, and Watson—7.

Absent—Mr. Tatem.

On motion of Mr. Mitchell, the bill, as amended, was ordered engrossed for a third reading.

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was referred the telegram of the Northern Pacific Railroad Company, accepting the terms of the bill granting subsidy for a road from the head of navigation on the Yellowstone river to a point beyond Deer Lodge City, find that the proposed route is directly on the survey of the Northern Pacific Railroad, and will at an early day give our territory through railroad connection with the east, and will undoubtedly bring to our country prosperity, and relieve the present stagnation in business.

A. H. MITCHELL.
McADOW.
LEWIS.

Mr. Hays reported as follows:

MR. PRESIDENT:—Your select committee to whom was referred C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county," report the same back and recommend that it pass, with the following amendments:

Section 2. Strike out, in 7th and 8th lines, the words, "as far as the eastern boundary of Deer Lodge county, or." Strike out, in last line of said section, the words "first day of July," and insert "fifteenth day of August."

Section 4. In 14th line, after "payable," insert "semi-annually." In 15th line, after "January," insert "and July."

Section 8. In ninth line from last line, strike out "and the several;" and make "applications," in 8th line from last, "application."

Section 10. In 7th line, strike out "fifteenth," and insert "first." In 14th line, strike out "June," and insert "August."

After section 12, insert the following sections:

"Section 13. The county commissioners of the several counties shall give notice of the election herein provided for, by publication in one or more newspapers published within such county, at least ten days before such election, or, if no newspaper be published therein, the same shall be published in one or more newspapers published in the territory most likely to give general notice; and they shall, at their March session, 1877, or, if not then, they shall convene forthwith thereafter, and they, or a majority of them, shall cause proper poll books to be distributed and provided for the holding of such election; but the failure of the county commissioners in any county or counties to give said notice shall not be held to invalidate the said election, but the same is hereby appointed to be held on the 10th day of April, 1877, between the hours of 8 o'clock A. M. and 6 o'clock P. M., and all general and special laws applicable to the conduct of general elections, not inconsistent herewith, shall be applicable thereto.

"Section 14. The votes that are cast upon the proposition herein contained, after abstracts of the same shall have been made by the county commissioners of the several counties, and such abstracts

shall have been forwarded to the Auditor as aforesaid, shall be canvassed in the same manner that the vote for delegate in Congress is canvassed under the existing laws. Those votes cast which read, "East and West Railroad Aid—Yes," shall be held and interpreted to be an approval of this act, and those votes which read, "East and West Railroad Aid—No," shall be held and deemed to be a disapproval of this act, and the said votes cast hereon shall be counted and canvassed accordingly.

"Section 15. At the election herein provided for, the ballots or votes shall contain the words "East and West Railroad Aid—Yes," or "East and West Railroad Aid—No;" and the same rules, regulations, liabilities, and penalties prescribed for the conduct of other elections, and liability of officers thereof, and electors within this territory, shall be observed and enforced at the election herein provided for; and the judges at such election shall truly certify and forward the result of such election, together with the poll books and ballots so cast, to the board of county commissioners, to the county seat of said county, within five days after the same shall have been counted and certified; and the county commissioners shall, within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such election, to the Auditor of the territory; and upon the failure upon the part of any officer or officers herein named to perform the duties prescribed by this act, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay a fine not less than \$5,000 nor exceeding \$10,000, and be imprisoned in the county jail not less than six nor more than ten months.

"Section 16. If a majority of the votes cast upon the question hereby submitted shall be in approval of this act in the manner and form prescribed in section 14, it shall be the duty of the Governor of the territory to announce such fact by proclamation to be published in one or more newspapers published in the territory, and thenceforward this act shall be a contract of binding force upon the territory of Montana, and also upon the corporation or association of individuals accepting the same as herein provided, for the fulfillment of which contract in every particular on its part, the good faith and credit of the people of Montana territory is pledged. Should, however, a majority of the votes cast at said election be for

the disapproval of this act, then this act shall be null and void, and all proceedings thereunder of no effect.

"Section 17. All railroads constructed with the same width of track within this territory shall have the privilege, with their roads, to intersect, connect with, or cross the road herein provided for, and shall receive and transport each other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination."

Make section 13 section 18.

HAYS, *Chairman*.

On motion of Mr. Hays, the amendments reported were adopted.

Mr. McAdow offered the following amendment:

Add to end of section 5: "*Provided*, That five hundred of said bonds shall be dated July 1st, 1877, and deposited with some company in the city of New York, to be fixed and agreed upon by mutual consent of parties in interest, to be delivered according to the provisions of this act; and five hundred more of said bonds shall be dated and deposited with said company one month prior to the finishing of the first one hundred miles, and to be delivered according to the provisions of this act; and five hundred more of said bonds shall be dated and deposited with said company one month prior to the finishing of the second one hundred miles, and to be delivered according to the provisions of this act."

The following report was received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 31, "An Act to amend section 261 of chapter 1 of the civil practice act of the territory of Montana," having carefully examined said bill, find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—I will on to-morrow, or some future day during the present session, introduce a bill for "An Act to amend an act in relation to public roads and highways," approved February 12th, 1874, page 103.

A. BROWN.

On motion of Mr. Waterbury, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M. — Council resumed — Mr. President in the chair.

Roll called—quorum present.

Mr. Tatem was granted leave of absence for the afternoon.

Mr. McAdow withdrew the amendment offered by him, before noon, to the last railroad bill.

On motion of Mr. Hays, C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county," was ordered engrossed, as amended, for third reading.

The Enrollment Committee reported :

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 21, "An Act to amend an act in relation to brands and marks," approved January 10th, 1872 (codified statutes, page 563); also H. B. No. 30, "An Act to provide compensation of J. C. Kerley, Hugh McQuaid, and L. F. Lacroix, for printing;" also H. B. No. 16, "An Act relative to the territorial library," respectfully report said bills correctly enrolled.

I. I. LEWIS, *Chairman*.

Select committee reported :

MR. PRESIDENT:—The select committee to whom was referred H. B. No. 1, "An Act to establish and maintain a hospital for the insane," beg leave to report the same back to the Council with the following amendments: In section 3, line 10, strike out the words "and resident physician." In section 7, line 8, insert after the word "asylum," the following: "shall give up the whole of his time to the duties of his office, and shall not attend to or engage in any professional or other business or employment except that of the asylum."

Respectfully submitted,

MITCHELL.
WATSON.

Mr. McAdow moved that the vote by which the amendments to the Mitchell railroad bill were adopted, be reconsidered.

Mr. Mitchell moved to lay the motion on the table. Carried.

Mr. Mitchell moved that the vote by which the amendments to the North Pacific Railroad bill were adopted, be reconsidered.

Mr. Hays moved to lay the motion on the table. Carried.

Mr. Ford introduced C. B. No. 49, "An Act to enable the people of the territory of Montana to aid in the construction of a railroad;" which was read the first and second times, and, on motion of Mr. Ford, was referred to a select committee of one from each county.

The President appointed Messrs. Ford, Brown, Waterbury, Constans, Watson, Lewis, McAdow, and Allebaugh, such committee.

The President announced that he was about to sign the following — bills, to-wit: H. B. No. 6, "An Act in relation to live stock;" H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876; H. B. No. 16, "An Act relative to the territorial library;" H. B. No. 21, "An Act to amend an act in relation to brands and marks," approved January 10th, 1872 (codified statutes, page 563); H. B. No. 30, "An Act to provide compensation of J. C. Kerley, Hugh McQuaid, and L. F. Lacroix, for printing;" H. B. No. 18, "An Act defining the powers and duties of the board of county commissioners of Gallatin county in certain cases;" H. B. No. 39, "An Act to amend section 147 of the criminal laws."

Mr. Waterbury presented a petition of citizens of Deer Lodge county asking for authority to build a road.

Mr. Waterbury introduced C. B. No. 50, a bill to authorize the county commissioners of Deer Lodge county to perform certain duties; was read the first and second times, and, on motion of Mr. Hays, was referred to the members from Deer Lodge.

Mr. Cullen introduced C. B. No. 51, "An Act to amend an act to provide for the support and maintenance of the Helena fire department;" was read the first and second times, and referred to the members from Lewis and Clarke county.

Mr. Lewis reported as follows:

MR. PRESIDENT:—Your Committee on Enrollment, to whom was referred H. B. No. 16, "An Act relative to the territorial library;" also, H. B. No. 21, "An Act to amend an act in relation to brands and marks," approved January 10th, 1872 (codified statutes, page 563); also, H. B. No. 30, "An Act to provide compensation of J. C. Kerley, Hugh McQuaid, and L. F. Lacroix, for printing;" respectfully report that they presented the said bills to the Governor for action at 2:45 P. M., February 8th, 1877.

I. I. LEWIS, *Chairman*.

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 18, "An Act defining the powers and duties of the county commissioners of Gallatin county in certain cases," respectfully report that they presented the same to the Governor for his action at 2:45 P. M., February 8th, 1877.

LEWIS, *Chairman*.

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 5, "An Act for the repeal of an act concerning the management of live stock," approved February 11th, 1876; also, H. B. No. 6, "An Act in relation to live stock;" also, H. B. No. 39, "An Act to amend section 147 of the criminal laws;" respectfully report that they presented said bills to the Governor for his action at 2:45 P. M., February 8th, 1877.

I. I. LEWIS, *Chairman*.

The following communications were received:

HOUSE OF REPRESENTATIVES, }
February 8th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 35, "An Act for the relief of W. F. Wheeler," and H. B. No. 20, "An Act to protect the treasuries of the counties and of the territory," have passed the House.

That C. B. No. 5 "An Act to repeal section 1 of chapter 94 of the codified statutes of Montana territory," approved January 11th, 1872, with amendments; C. B. No. 8, "An Act in relation to swine," with amendments; C. B. No. 20, "An Act to amend section 10 of an act concerning notaries public," with amendments;" C. J. M. No. 2, with amendments; H. B. No. 34, a bill for "An Act to amend the Helena incorporation act;" have passed the House.

That C. B. No. 17, a bill to amend section 286, chapter 12, of the criminal practice act, approved January 12th, 1872, was rejected by the House.

All of which are herewith transmitted.

Notices were given as follows:

By Mr. Vivion—"An Act to amend section 4 of an act entitled 'An Act relating to county commissioners,'" approved January 9th, 1872.

By J. G. Sanders—An act entitled "An Act in relation to county commissioners."

By W. F. Sanders—"An Act for the relief of certain counties."

That bills were introduced:

By Mr. Thompson—H. B. No. 54, "An Act concerning dogs."

By Mr. Ives—H. B. No. 55, "An Act to secure the better observance of Sunday."

By Mr. Vivion—H. B. No. 56, "An Act to authorize the Governor to organize counties."

By J. G. Sanders—H. B. No. 57, a bill in relation to printing.

By Mr. Hickman—H. B. No. 58, "An Act to change the name of Stinking Water river."

Respectfully,

A. H. BARRET, *Chief Clerk.*

HOUSE OF REPRESENTATIVES, }
February 8th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 54, "An Act concerning dogs," was indefinitely postponed.

That H. B. No. 56, a bill for "An Act to authorize the Governor to organize counties," has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Cullen, the Council concurred in House amendment to C. B. No. 20, "An Act to amend section 10 of an act concerning notaries public," approved February 8th, 1876 (session laws 1876, page 115), and the bill was ordered enrolled.

On motion of Mr. Waterbury, the Council concurred in House amendment to C. J. M. No. 2, and it was ordered enrolled.

On motion of Mr. Watson, the Council refused to concur in the amendments of the House to C. B. No. 8, "An Act in relation to swine," and asked the House to recede.

On motion of Mr. Brown, the Council concurred in House amendments to C. B. No. 5, "An Act to repeal section 1, chapter 94, of the codified statutes of Montana territory, approved January 11th, 1872," and bill ordered enrolled.

Mr. Ford offered the following, and moved its adoption:

Resolved, That the House be requested to engross their amendments to Council Bills before they return them to the Council.

R. S. FORD.

Resolution was adopted.

H. B. No. 34, "An Act to amend the Helena incorporation act," was read first time, and Mr. Brown objected; and the bill was rejected by the following vote:

Ayes—Allebaugh, Brown, Ford, Hays, McAdow, and Watson—6.

Nays—Constans, Cullen, Lewis, and Mr. President—4.

Absent—Mitchell, Tatem, and Waterbury.

H. B. No. 35, "An Act for the relief of W. F. Wheeler," was read the first and second times, and referred to the Committee on Ways and Means.

H. B. No. 20, "An Act to protect the treasuries of the counties and of the territory of Montana," was read the first and second times, and referred to the Committee on Ways and Means.

H. B. No. 56, a bill for "An Act to authorize the Governor to organize counties," was read the first and second times, and referred to the Committee on Towns and Counties.

On motion of Mr. Mitchell, the Council adjourned until to-morrow, at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk.*

THIRTY-THIRD DAY.

COUNCIL CHAMBER, }
February 9th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

Mr. Mitchell presented petitions from citizens of Deer Lodge county, asking for the submission of Jay Gould & Co.'s proposition to the people, which were, on motion, referred to the Committee on Internal Improvements.

The following reports were received:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county," have examined the same, and find it correctly engrossed.

HAYS.
FORD.

MR. PRESIDENT:—Your Committee on Towns and Counties, to whom was referred H. B. No. 56, "An Act to authorize the Governor to organize counties," beg leave to report the same back to the Council, with the following amendment: In section 1, line 10, insert after the word "after," the words "receiving notice of;" and with this amendment, recommend that it do pass. WATSON.

On motion of Mr. McAdow, the amendment was adopted, and ordered engrossed.

MR. PRESIDENT:—Your Committee on Ways and Means, to whom was referred H. B. No. 35, entitled "An Act for the relief of W. F. Wheeler," have had the same under consideration, and would respectfully report the bill back, and recommend that the same do pass.

WATERBURY, *Chairman*.

FORD.

ALLEBAUGH.

MR. PRESIDENT:—Your Committee on Ways and Means, to whom was referred H. B. No. 20, "An Act to protect the treasuries of the counties and territory of Montana," have had the same under consideration, and recommend the same be amended by inserting between the words "or" and "corporations," in line 11, section 9, the words "managers of."

With the above amendment, we recommend the bill do pass.

WATERBURY.

FORD.

ALLEBAUGH.

On motion of Mr. Lewis, the report and amendment were adopted, and ordered engrossed.

MR. PRESIDENT:—A minority of your Committee upon Military Affairs, to whom was referred C. B. No. 19, "An Act to provide for the organization of the militia in Montana," have had the bill under consideration, and for the following reasons decline to sign the majority report: The total absence of any necessity for the use of a large apparent volunteer military force within the limits of Montana, and the evident effect such an act would produce in

causing the government to withdraw the present government or regular forces from our territory, with their whole patronage to our producers, are among the prominent objections to the bill. While the annoyance to individual citizens who can ill afford to lose their time and spend their means to gratify the whim of a "commander-in-chief," a sort of military dictator herein created.

These objections, with the additional consideration that the bill anticipates and provides for a heavy expense, and increased taxation upon an already over-burdened people, with no earthly hope of receiving a just remuneration or accruing benefit therefor.

We therefore most respectfully report said bill back, and recommend that the bill do not pass.

WATERBURY,

Minority Committee on Military Affairs.

MR. PRESIDENT:—A majority of your Committee on Military Affairs, to whom was referred C. B. No. 19, "An Act to provide for the organization of the militia," beg leave to report the same back to the Council, and recommend its passage, with the following amendments, to-wit:

Add to section 7 the following, to-wit: "The assessor shall have power to administer an oath, and may examine all persons as to their ages and liability to do military duty under the provisions of this act."

Add to the end of section 8 the following, to-wit: "Such meeting shall take place within thirty days after such drawing."

In section 12, line 6, strike out "such" and insert "each."

In section 30, third sub-division, strike out all after the word "legislature," and insert "and practicing physicians." Also add to said section a fifth sub-division, as follows, to-wit: "5. All persons of unsound mind."

B. H. TATEM,

W. E. CULLEN,

Majority Committee on Military Affairs.

Mr. Cullen moved to adopt the majority report.

Mr. Waterbury moved to amend by adopting the minority report.

On motion of Mr. Tatem, both reports were received, and referred to the Committee of the Whole, and made the special order for 7 o'clock P. M.

The following report was received:

MR. PRESIDENT:—Your Committee on Mines and Minerals, to whom was referred C. B. No. 37, "An Act to establish the office of commissioner of mines," respectfully report the same back to the Council, and ask leave to introduce a substitute therefor, which is herewith submitted.

LEWIS.

WATERBURY.

TATEM.

On motion of Mr. Tatem, the substitute reported was adopted, and, on motion of Mr. Cullen, it was ordered engrossed for a third reading.

The following report was received:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred C. B. No. 5, "An Act to repeal section 1 of an act entitled 'An Act concerning county warrants, and for other purposes,'" approved January 11th, 1872; also, C. B. No. 20, "An Act to amend section 10 of an act concerning notaries public," approved February 8th, 1876, respectfully report the same correctly enrolled.

LEWIS, *Chairman*.

The following report was received:

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was referred H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana," have had the same under consideration, and respectfully report as follows:

Your committee, on investigation, are led to believe that the amount of property, at assessed value, of the first woolen factory contemplated in said act, would probably not exceed the sum of \$10,000, at the farthest not more than \$15,000; that the revenue to be derived in the way of taxes from that amount of property

would not exceed \$1,800 during the six years of exemption. We believe the successful operating of a woolen factory in this territory would have a tendency to increase the sheep flocks, and to very soon double the wool clip; in which case, it cannot be but self-evident to every thinking mind, that instead of the territory suffering a loss by granting a company or corporation the exemption provided for in said bill, it would, on the contrary, be a very profitable investment. The increase of property caused by the profitable manufacturing of woolen fabrics, would yield a tax revenue largely exceeding the amount lost by the said exemption.

We therefore report the bill back to the Council without amendment, and recommend its passage.

MITCHELL.
LEWIS.
McADOW.

Mr. Cullen moved to adopt the report.

Mr. Watson moved that the bill be recommitted, with instructions to bring in an amendment restricting the amount of capital exempted to \$20,000; and also to exempt a match and a soap and candle manufactory, and for the period of four years; which motion was lost by the following vote:

Ayes—Allebaugh, Brown, Ford, Waterbury, and Watson—5.

Nays—Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, and Mr. President—8.

Mr. Waterbury moved to take a recess until 2 o'clock; which motion was lost.

And the report of the committee was adopted.

Mr. President announced that he was about to sign the following bills, to-wit: C. B. No. 5, "An Act to repeal section 1 of an act entitled 'An Act concerning county warrants, and for other purposes,'" approved January 11th, 1872; also, C. B. No. 20, "An Act to amend section 10 of an act concerning notaries public," approved February 8th, 1876 (session laws 1876, page 115).

On motion, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

The following report was received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 18, "An Act to secure railroad communication to the people of Montana," having carefully examined said bill, find the same correctly engrossed.

ASA A. BROWN, *Chairman*.

Mr. Hays moved that Council Bills Nos. 21 and 18, the North and South and East and West Railroad bills, be taken up and read the third time; which motion prevailed.

A call of the House was ordered.

Roll called—absent, Mr. Tatem.

The Sergeant-at-Arms was instructed to bring in the absentee.

Mr. Tatem appeared in his seat.

On motion, further proceedings under the call were dispensed with.

C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Hays, Lewis, Mitchell, McAdow, Waterbury, Watson, and Mr. President—9.

Nays—Constans, Cullen, Ford, and Tatem—4.

Mr. Hays offered an amendment to the title.

Mr. Ford offered the following amendment, which Mr. Hays accepted, and it was adopted:

"An Act to secure to the people of Montana territory a railroad

from the head of navigation on the Yellowstone river a distance of three hundred miles westward, on the line of the Northern Pacific Railroad survey."

Mr. Mitchell moved to reconsider the vote by which the bill passed.

Mr. Hays moved to lay the motion on the table. Carried.

C. B. No. 18, "An Act to secure railroad communication to the people of Montana," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Hays, Mitchell, McAdow, Waterbury, and Watson—7.

Nays—Constans, Cullen, Ford, Lewis, Tatem, and Mr. President—6.

Title agreed to.

Mr. Waterbury moved to reconsider the vote by which the bill passed.

Mr. Mitchell moved to lay the motion to reconsider on the table. Carried.

The following report was received:

To the Legislative Assembly of Territory of Montana:

Your committee, appointed under Joint Resolution No. 1, to examine and report upon the books and accounts of the Territorial Auditor and Treasurer, beg leave to report to the Council and House that your committee found that no examination of the affairs of the said officers had been made for the years 1874, 1875, and 1876, and that such examination would not only consume more time than could be spared from other legislative duties, but that it needed the assistance of an experienced book-keeper and accountant; that your committee, therefore, employed George B. Parker, Esq., under the authority given them by the resolution, to make a thorough examination of the books, accounts, vouchers, and all matters connected with the aforesaid offices.

That Mr. Parker commenced his labors on the 16th ultimo, and made a complete and exhaustive examination of the books, accounts, and vouchers connected with the said offices, and made a report to your committee, which is hereto annexed and made a part hereof.

From the said statement of Mr. Parker, and the investigation of your committee, it is satisfied that the books and accounts of the offices of Auditor and Treasurer are in a satisfactory condition, with the exception hereinafter named, and that the duties devolving upon the aforesaid officers have been efficiently and faithfully discharged.

That the books of the Auditor have not been kept in accordance with any system of book-keeping, but upon a careful examination it has been found that the general result and balances arrived at are correct. Your committee would suggest that the books of the Auditor should be simplified by keeping the same in accordance with the double-entry system of book-keeping, and that the present system be abandoned.

All of which is respectfully submitted.

B. H. TATEM,
P. W. MCADOW,

Committee on the part of the Council.

TERRITORY OF MONTANA, }
TREASURER'S OFFICE, }
HELENA, February 8th, 1877. }

To the Special Committee to Examine the Books of Auditor and Treasurer of Montana Territory:

GENTLEMEN:—I, Geo. B. Parker, duly sworn to examine the books of the Auditor and Treasurer of Montana Territory, depose and say that, after carefully having compared vouchers with warrants, and systematically checked every entry made during the years 1874, 1875, and 1876, I find the books to be correct, and in excellent shape, with the exception of a few clerical errors in the Auditor's books during ex-Auditor Sol. Star's administration.

All matters pertaining to the term of the present incumbents in the Auditor's and Treasurer's offices commend themselves as strictly correct without an error.

Very respectfully,

GEO. B. PARKER.

TERRITORY OF MONTANA,
County of Lewis and Clarke, } ss.

George B. Parker, being first duly sworn, deposes and says that he will well and truly examine the books of the Territorial Treasurer and Territorial Auditor, as an accountant, and will make a full, true, and correct report thereof, to the best of his ability, to the joint committee appointed by the Tenth Legislative Assembly to examine and report upon the aforesaid books.

GEO. B. PARKER.

Subscribed and sworn to before me, this 19th day of January, 1877.

W. F. CHADWICK, *Notary Public*.

The following report was received:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred C. B. No. 5, "An Act to repeal section 1 of an act entitled 'An Act concerning county warrants, and for other purposes,'" approved January 11th, 1872; also C. B. No. 20, "An Act to amend section 10 of an act concerning notaries public," approved February 8th, 1876, respectfully report that they presented the same to the Governor for his action, at 1:45 P. M., February 9th, 1877.

I. I. LEWIS, *Chairman*.

The following communication was received:

MONTANA TERRITORY,
EXECUTIVE DEPARTMENT,
HELENA, February 9th, 1877. }

To the Council:

I have the honor to inform the Council that on the 1st day of February, A. D. 1877, I approved C. B. No. 9, entitled "An Act to compel the owners of ditches and flumes to keep the same in repair;" and on the 5th day of February, 1877, I approved C. B. No. 16, entitled "An Act to enable the people of Bozeman to erect a school house;" also, on the 9th day of February, 1877, I approved C. B. No. 5, entitled "An Act to repeal section 1 of an act entitled 'An Act concerning county warrants, and for other purposes,'" approved January 11th, 1872; also, on same day, I approved C. B. No. 20, entitled "An Act to amend section 10 of an act concerning notaries public," approved February 8th, 1876.

Respectfully,

B. F. PORTS.

The Judiciary Committee reported:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 35, "An Act to amend chapter 40 of the codified statutes," would report the same back to the Council, with the following amendments: In section 2, line 4, erase "sixty," and insert "thirty;" in line 12, erase "sixty," and insert "thirty."

W. E. CULLEN.

B. H. TATEM.

I. I. LEWIS.

A. A. BROWN.

On motion of Mr. Brown, the report and amendments were adopted, and the bill ordered engrossed.

The following communications were received from the House:

HOUSE OF REPRESENTATIVES, }
February 9th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. J. M. No. 4, asking Congress to aid in the maintenance of the free schools of the territory of Montana;" H. B. No. 43, "An Act to authorize the several counties of this territory to change their county seats on certain conditions;" H. B. No. 45, a bill for "An Act to amend section 69 of the criminal practice act, approved January 12th, 1872," have passed the House.

That C. B. No. 15, "An Act concerning elections," with amendments, and C. B. No. 28, "An Act to prohibit persons keeping gambling houses from permitting minors to gamble therein," with amendments, have passed the House, and are herewith transmitted.

That C. B. No. 27, "An Act in relation to the competency of witnesses," was laid on the table.

That H. B. No. 27, "An Act to amend section 138 of an act entitled 'An Act to amend an act to regulate proceedings in civil cases in the courts of justice of the territory of Montana,'" approved February 13th, 1874; H. B. No. 32, "An Act to amend an act to regulate proceedings in civil cases in the courts of justice of Montana territory, in relation to attachments, and to repeal section 146 of said act;" H. B. No. 44, "An Act concerning license;" H. B.

No. 47, "An Act defining the relations of the counties of Big Horn and Dawson to the counties of Gallatin and Meagher;" C. B. No. 34, "An Act to increase the compensation of grand and trial jurors in the district court in the county of Deer Lodge, in the territory of Montana," have been indefinitely postponed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

HOUSE OF REPRESENTATIVES, }
February 9th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that bills were introduced:

By Judiciary Committee—H. B. No. 59, "An Act to provide a code of civil procedure in the territory of Montana."

By Mr. Word—H. B. No. 60, "An Act to provide for the copying of the laws for publication."

That H. B. No. 58, "An Act to change the name of the Stinking Water river;" H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," and H. J. R. No. 4, have passed the House, and are herewith transmitted.

That H. B. No. 54, "An Act concerning dogs," was indefinitely postponed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Brown, the Council refused to concur in House amendments to C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," and asked the House to recede therefrom.

On motion of Mr. Lewis, House amendments to C. B. No. 15, "An Act concerning elections," were concurred in, and the bill ordered enrolled.

H. J. M. No. 4, a joint memorial asking Congress to aid in the maintenance of the free schools of the territory of Montana, was read the first and second times, and, on motion of Mr. Cullen, the

rules were suspended, the memorial read the third time by title, and passed by the following vote:

Ayes—Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Watson, and Mr. President—10.

Nays—Brown and Waterbury—2.

Absent—Mr. Allebaugh.

On motion of Mr. Waterbury, the title was amended by striking out “engress,” and inserting “Congress.”

On motion of Mr. Hays, the Council took a recess until 7 o'clock P. M.

7 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—no quorum present.

A call of the House was ordered.

Roll called—absent, Allebaugh, Brown, Constans, Cullen, Ford, McAdow, and Waterbury.

The Sergeant-at-Arms was directed to bring in the absentees.

Mr. Cullen appeared—quorum present.

On motion of Mr. Mitchell, further proceedings under the call were dispensed with.

The Council went into Committee of the Whole on the special order.

Council resumed—Mr. President in the chair.

Mr. Mitchell reported as follows:

MR. PRESIDENT:—The Committee of the Whole report C. B. No. 19, “An Act to provide for the organization of the militia,” back to the Council, and recommend that the same be indefinitely postponed.

MITCHELL, *Chairman*.

Mr. Hays moved to adopt the report; which motion prevailed, and the bill was indefinitely postponed.

Mr. Hays moved to reconsider the vote, and Mr. Waterbury moved to lay the motion to reconsider on the table; which motion prevailed.

H. B. No. 35, "An Act for the relief of W. F. Wheeler," was read the third time, and passed by the following vote:

Ayes—Brown, Cullen, Ford, Hays, Lewis, Mitchell, Waterbury, Watson, and Mr. President—9.

Nays—None.

Absent—Allebaugh, Constans, McAdow, and Tatem.

Title agreed to.

H. B. No. 20, "An Act to protect the treasuries of the counties and of the territory of Montana," was read the third time, and passed by the following vote:

Ayes—Brown, Cullen, Ford, Hays, Lewis, Mitchell, Waterbury, Watson, and Mr. President—9.

Nays—None.

Absent—Allebaugh, Constans, McAdow, and Tatem.

Title agreed to.

On motion of Mr. Waterbury, the Council adjourned.

HARRY R. COMLY, *Chief Clerk.*

THIRTY-FOURTH DAY.

COUNCIL CHAMBER, }
February 10th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

Mr. Bass presented a petition from citizens of Missoula, asking for a Sunday liquor law; which was partially read, and on motion of Mr. Mitchell, the further reading of the petition was dispensed with.

Mr. Brown reported as follows:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred substitute for C. B. No. 37, "An Act to provide against accidents in mines," having carefully examined said bill, find the same correctly engrossed.

BROWN, *Chairman*.

Select committee reported:

MR. PRESIDENT:—Your select committee, composed of the members of Lewis and Clarke county, relating to the fire department of Helena, reports C. B. No. 51 back for its passage.

CONSTANS, *Chairman*.

CULLEN.

TATEM.

C. B. No. 51, "An Act to amend an act to provide for the support and maintenance of the Helena fire department," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis,

Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

Mr. McAdow introduced C. B. No. 52, "An Act to legalize the action of the county commissioners of Gallatin county;" was read the first and second times, and, on motion of Mr. McAdow, the rules were suspended, the bill read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

Mr. McAdow introduced C. J. R. No. 2, to pay an expert for examining the Treasurer's and Auditor's books; was read the first and second times, and, on motion of Mr. Tatem, the rules were suspended, the bill considered engrossed, read a third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

The title was agreed to.

The following report was received:

MR. PRESIDENT:—Your special committee to whom was referred C. B. No. 50, "An Act to authorize the county commissioners of Deer Lodge county to perform certain duties," having had the same under consideration, most respectfully submit the following amendments: Strike out section 3, and re-number the following sections 3, 4, 5, 6, 7, and 8; insert after the word "performance," in the fifth line of (re-numbered) section 5, the words "of their said contracts;"

insert in (re-numbered) section 8, third line, after the word "its," the words "passage and."

With the above amendments, your committee recommend the bill do pass.

WATERBURY,
BROWN,
MITCHELL,

Special Committee from Deer Lodge County.

On motion, the report and amendments were adopted, and the bill ordered engrossed.

H. J. R. No. 4 was read the first and second times, and Mr. Hays moved to refer it to the Committee on Agriculture and Manufactures; which motion was lost.

Mr. Tatem moved to suspend the rules, read the third time, and put on final passage; which motion prevailed, and the resolution was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Mitchell, McAdow, Tatem, Watson, and Mr. President—11.

Nays—Hays and Waterbury—2.

H. B. No. 45, "An Act to amend section 69 of the criminal practice act," approved January 12th, 1872, was read the first and second times, and referred to the Judiciary Committee.

H. B. No. 43, "An Act to authorize the several counties of this territory to change their county seats on certain conditions," was read the first and second times, and referred to the Committee on Towns and Counties.

H. B. No. 58, "An Act to change the name of the Stinking Water river," was read the first and second times, and, on motion of Mr. Watson, the rules were suspended, and the bill read the third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—11.

Nays—Brown and Mitchell—2.

Title agreed to.

H. B. No. 14, "An Act re-apportioning the members of the Legislative Assembly," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Ford, Mitchell, Tatem, Waterbury, Watson—8.

Nays—Cullen, Hays, Lewis, McAdow, and Mr. President—5.

Title agreed to.

Mr. Waterbury moved to reconsider the vote by which the bill was passed.

Mr. Watson moved to lay the motion the table. Carried.

H. B. No. 1, "An Act to establish and maintain a hospital for the insane, and otherwise provide for the insane of the territory," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Watson—11.

Nays—Hays and Mr. President—2.

Title agreed to.

On motion of Mr. Brown, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M. — Council resumed—Mr. President in the chair.

Roll called—all present.

H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," was read the first and second times, and Mr. Tatem moved to refer to the Committee on Incorporations.

Mr. Mitchell moved to amend to refer to a committee of one from each county ; which prevailed, and the President appointed as such committee, Messrs. Mitchell, Constans, Allebaugh, Watson, Hays, Ford, Waterbury, and Lewis. Mr. Constans was excused and Mr. Tatem substituted. Mr. Mitchell was excused, and Mr. Brown appointed in his stead.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 10th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that the House refuse to recede from their amendments to C. B. No. 28, and have appointed W. F. Sanders, Robinson, and Vivion as a conference committee, and respectfully request the Council to appoint a like committee.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Tatem, Messrs. Tatem, Brown, and Watson were appointed a committee of conference on C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein."

H. B. No. 22, "An Act to encourage the manufacture of woollen fabrics in the territory of Montana," was read third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, and Mr. President—9.

Nays—Brown, Ford, Waterbury, and Watson—4.

Title agreed to.

H. B. No. 56, a bill for "An Act to authorize the Governor to organize counties," was read third time, and lost by the following vote:

Ayes—McAdow—1.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, Tatem, Waterbury, Watson, and Mr. President—12.

Mr. Waterbury moved to reconsider.

Mr. Tatem moved to lay the motion to reconsider on the table.
Carried.

C. B. No. 31, "An Act to amend section 261 of chapter 1 of the civil practice act of the territory of Montana," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Hays, Lewis, Mitchell, McAdow, Watson, and Mr. President—8.

Nays—Constans, Cullen, Ford, Tatem, and Waterbury—5.

Title agreed to.

Substitute for C. B. No. 37, "An Act to provide against accidents in mines," was read third time, and passed by the following vote :

Ayes—Allebaugh, Cullen, Ford, Hays, Lewis, Tatem, and Watson—7.

Nays—Brown, Constans, Mitchell, McAdow, Waterbury, and Mr. President—6.

Title agreed to.

Mr. Lewis introduced C. B. No. 53, "An Act to exempt certain manufactories from taxation for a term of years." Read first and second times, and referred to Committee on Agriculture and Manufactures.

Mr. Brown introduced C. B. No. 54, "An Act to amend section 18 of an act entitled 'An Act in relation to roads and highways,' " approved February 12th, 1874. Read first and second times, and referred to Committee on Roads and Highways.

Mr. McAdow introduced C. B. No. 55, "An Act to re-enact section 3 of the revenue act, providing for the collection of revenue" (codified statutes). Read first and second times, and referred to the Committee on Ways and Means.

The following report was received :

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 39, entitled "An Act prescribing the fees of the clerks of the district courts in the several counties of the territory, and other officers," have instructed me to report the same back, and recommend its passage, with the following amendments:

In section 1, line 10, before "of," insert "indices, and entering appearance of attorneys;" also, in same line, strike out "one dollar," and insert in lieu thereof "two dollars." In line 17, after

the word "dollar," insert "and fifty cents." In line 31, strike out "seventy-five cents," and insert "one dollar." In line 35, strike out "seventy-five cents," and insert "one dollar." In line 44, strike out "seventy-five cents," and insert "one dollar." In line 74, strike out "forty," and insert "fifty." In line 90, strike out "fifty," and insert "seventy-five." In line 100, strike out "fifty," and insert "seventy-five." In line 107, strike out "one dollar," and insert "seventy-five cents." In line 111, after the word "dollar," insert "and fifty cents."

Transpose section 5 and make it section 2, re-numbering the other sections of the bill.

Respectfully submitted,

W. E. CULLEN, *Chairman.*

Report adopted, and bill ordered engrossed.

On motion, the Council went into executive session.

Council resumed, doors opened, and the Clerk was instructed to enter on the journal that the Council, in executive session, had confirmed Alexander Carmichael, of Lewis and Clarke county, who had been nominated by the Governor to be a notary public.

On motion of Mr. Cullen, H. B. No. 3, "An Act imposing certain duties upon the Governor of the territory," was taken from the table, and Mr. Allebaugh offered a substitute.

On motion of Mr. Watson, the substitute was adopted, and, on motion, the substitute and bill were referred to the Judiciary Committee.

Mr. Lewis, from the Enrollment Committee, reported four copies of C. J. M. No. 2 correctly enrolled.

The President announced that he was about to sign C. J. M. No. 2.

On motion of Mr. Mitchell, the Council adjourned until 10 o'clock A. M., February 12th.

HARRY R. COMLY, *Chief Clerk.*

THIRTY-SIXTH DAY.

COUNCIL CHAMBER, }
February 12th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of thirty-fourth day read and approved.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 10th, 1877. }

MR. PRESIDENT:—I am directed to inform the Council that H. B. No. 16, "An Act in relation to the territorial library," has passed the House, notwithstanding the objections of the Governor, and is herewith transmitted, with the Governor's objections.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Mitchell, the Council proceeded to reconsider H. B. No. 16, "An Act relative to the territorial library."

On motion of Mr. Tatem, a call of the House was ordered.

Roll called—absent, Mr. Waterbury.

On motion of Mr. McAdow, further proceedings under the call were dispensed with.

On the question, "Shall the bill pass, notwithstanding the objections of the Governor?" the bill was lost by the following vote:

Ayes—Constans, Cullen, Lewis, Tatem, and Waterbury—5.

Nays—Allebaugh, Brown, Ford, Hays, Mitchell, McAdow, Watson, and Mr. President—8.

The following reports were received:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 41, entitled "An Act in relation to the redemption of real property," have instructed me to report the same back, recommending its passage.

W. E. CULLEN, *Chairman*.

Bill ordered engrossed.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 45, entitled "An Act to amend section 69 of the criminal practice act," approved January 12th, 1872, have instructed me to report the bill back to the Council, and recommend that it do pass.

W. E. CULLEN, *Chairman*.

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred C. B. No. 15, "An Act concerning elections," respectfully report the same correctly enrolled.

LEWIS, *Chairman*.

Mr. Mitchell introduced C. B. No. 56, "An Act to provide for the support and maintenance of the Butte City fire department;" was read the first and second times, and, on motion of Mr. McAdow, the rules were suspended, the bill considered engrossed, read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

Mr. Waterbury introduced C. C. R. No. 7, in relation to printing, which, on motion of Mr. Watson, was referred to the Committee on Ways and Means.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 39, "An Act prescribing the fees of the clerks

of district courts in the several counties of the territory, and other officers," having carefully examined said bill, find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 50, a bill to authorize the county commissioners of Deer Lodge county to perform certain duties, having carefully examined the same, find that the same is correctly engrossed.

A. BROWN, *Chairman*.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 10th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that the House has concurred in Council amendments to H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory;" and that they have amended said amendments, which is herewith transmitted.

That the following bills have passed the House, and are herewith transmitted :

H. B. No. 25, "An Act to consolidate the offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula counties."

H. B. No. 59, "An Act to provide a code of civil procedure for Montana territory."

Also, substitute for C. J. M. No. 1.

That the following bills were introduced :

By Mr. Robinson—H. B. No. 61, "An Act relating to probate courts, and estates of deceased persons."

Also, H. B. No. 62, "An Act to regulate the sale of water, and encourage the pursuits of industry."

Also, H. B. No. 63, "An Act to amend the civil practice act relating to practice in justice's courts."

Also, H. B. No. 64, "An Act relating to the fees of officers, and taxation of costs."

By Mr. Kessler—H. B. No. 65, a bill for "An Act to amend an act entitled 'An Act to provide for the redemption of the funded debt of Lewis and Clarke county,'" approved February 5th, 1876.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Cullen, H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory," was laid on the table.

On motion of Mr. McAdow, the Council concurred in House substitute for C. J. M. No. 1, and it was ordered enrolled.

H. B. No. 25, "An Act to consolidate the offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula counties," was read the first and second times, and, on motion of Mr. Ford, the bill was referred to a committee consisting of the members of the counties interested, including Mr. Hays, from Gallatin.

Mr. Tatem moved that the rules be suspended, and H. B. No. 59, "An Act to provide a code of civil procedure in the territory of Montana," be read the first time by title.

On motion of Mr. Hays, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

The Clerk proceeded to read H. B. No. 59.

On motion of Mr. Mitchell, a call of the House was ordered.

Roll called—absent, Mr. Tatem.

The Sergeant-at-Arms was directed to bring in the absentee.

On motion, further proceedings under the call were dispensed with.

The Clerk continued to read.

Mr. Watson moved that the further reading of the bill be postponed until 7 o'clock P. M.; which motion was lost by the following vote:

Ayes—Allebaugh, Constans, Ford, Lewis, and Watson—5

Nays—Cullen, Hays, Mitchell, McAdow, Waterbury, and Mr. President—6.

Absent—Mr. Tatem.

Excused—Mr. Brown.

The Clerk continued to read.

Moved to take a recess until 7 P. M.

Mr. Mitchell moved to amend until 10 A. M. to-morrow.

The amendment was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

The motion to take a recess was lost by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Tatem, and Watson—6.

Nays—Ford, Hays, Lewis, Mitchell, McAdow, Waterbury, and Mr. President—7.

The Clerk continued to read.

Mr. Tatem moved to suspend the rules, and dispense with the further reading of the bill; which motion was lost by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Tatem, and Watson—8.

Nays—Hays, Mitchell, McAdow, Waterbury, and Mr. President—5.

The Clerk continued to read.

On motion of Mr. McAdow, the Council took a recess until 7 o'clock P. M.

7 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—all present.

Clerk continued reading.

Mr. Ford moved that the further reading of the bill be dispensed with until Wednesday, at 10 o'clock A. M.

Mr. McAdow moved to amend that the rules be suspended, the bill be read a third time by title, and placed on its final passage.

Mr. Watson moved to amend by suspending the rules, reading second time by title, and referring it to the Judiciary Committee; which motion prevailed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

Nays—Hays, Mitchell, Waterbury, and Mr. President—4.

Mr. Ford moved that Mr. Hays be added to the Judiciary Committee. Lost.

H. B. No. 45, a bill for "An Act to amend section 69 of the criminal practice act," approved January 12th, 1872, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—11.

Nays—Hays and Mitchell—2.

Title was agreed to.

C. B. No. 39, "An Act prescribing the fees of the clerks of the district courts in the several counties of the territory, and other officers," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, and Watson—11.

Nays—Mitchell and Mr. President—2.

Title agreed to.

C. B. No. 50, "A bill to authorize the county commissioners of Deer Lodge county to perform certain duties," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

The following reports were received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 35, "An Act to amend chapter 40 of the codified statutes," having carefully examined said bill, find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 53, "An Act to exempt certain manufactories from taxation for a term of years," have had the same under consideration, and report the same back to the Council, with the following amendments: After the word "powder," in section 1, line 7, insert "and the first manufactory of matches, and the first manufactory of leather;" also, in line 15, same section, strike out "five," and insert "fifteen."

FORD.

HAYS.

TATEM.

On motion of Mr. Watson, the amendments reported were adopted, and the bill ordered engrossed.

On motion of Mr. Hays, the Council went into executive session.

Council resumed, doors opened, and the Clerk was directed to enter upon the journal that the Council confirmed the following nominations of the Governor for notaries public, to-wit:

Geo. F. Marsh, of Lewis and Clarke county.

Nicholas Hilger, of Lewis and Clarke county.

Alden J. Bennett, of Madison county.

Mr. Ford introduced C. B. No. 57, a bill for "An Act authorizing the appointment of deputy assessors;" was read first and second times, and referred to the Judiciary Committee.

Mr. Cullen moved to take up the report on the President's table.

Mr. Hays objected.

Mr. Hays moved to adjourn; which motion was lost by the following vote:

Ayes—Brown, Hays, Mitchell, McAdow, Waterbury, and Mr. President—6.

Nays—Allebaugh, Constans, Cullen, Ford, Lewis, Tatem, and Watson—7.

The chair decided that it would require a suspension of the rules to take up the report.

Mr. Tatem moved to suspend the rules and take up the report for consideration.

Mr. Tatem withdrew the motion.

Mr. Watson moved that the Council go into Committee of the Whole on the bill reported.

Mr. Hays moved to adjourn. The motion prevailed, and the Council adjourned until 10 A. M. to-morrow.

HARRY R. COMLY, *Chief Clerk*,

THIRTY-SEVENTH DAY.

COUNCIL CHAMBER, }
February 13th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read and approved.

The following reports were received:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 55, "An Act to re-enact section 3 of the revenue act, providing for the collection of revenue" (codified statutes), have had the same under consideration, and respectfully recommend the following amendment: Insert after "growing crops," in line 42, "mines and mining claims, except those held under patent from the United States."

With the above amendment, we recommend the bill do pass.

WATERBURY.

ALLEBAUGH.

MR. PRESIDENT:—The minority of your committee to whom was referred C. B. No. 55, "An Act to re-enact section 3 of the revenue act, providing for the collection of revenue" (codified statutes), have had the same under consideration, and respectfully represent that the bill cannot affect mines or mining claims that are *not* patented, and, believing that everything that has financial value should be compelled to share the burdens of taxation equally, would report said bill back to the Council, and recommend its passage.

R. S. FORD.

Mr. Watson moved to refer to Committee of the Whole, at 2 o'clock this afternoon.

Mr. Mitchell moved to amend to 11 o'clock this morning. Lost.

And the bill was referred to Committee of the Whole.

The following report was received:

MR. PRESIDENT:—Your committee to whom was referred C. J. R. No. 7, have had the same under consideration, and respectfully submit the following amendments: Strike out the word "three," and insert "five," in line 4; and add the following to the resolution: "And that the school law in force at the expiration of the present session of the legislature be embodied in the report."

With the above amendments, we recommend the bill do pass.

WATERBURY.

ALLEBAUGH.

FORD.

Report adopted, and resolution ordered engrossed as amended.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 41, "An Act in relation to the redemption of real property," have carefully examined said bill, and find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad;" also, H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana;" also, H. B. No. 58, "An Act to change the name of Stinking Water river;" also, H. B. No. 35, "An Act for the relief of W. F. Wheeler;" also, H. J. R. No. 4, thanks to J. P. Woolman, respectfully report said bills correctly enrolled.

LEWIS, *Chairman*.

MR. PRESIDENT:—Your special committee to whom was referred H. B. 31, "An Act to aid in the construction of a railroad to Montana," would report the same back to the Council, and recommend its passage.

B. H. TATEM.

I. I. LEWIS.

R. S. FORD.

ASA A. BROWN.

T. WATSON.

J. B. ALLEBAUGH.

The following report was received :

MR. PRESIDENT:—Your special committee to whom was referred H. B. No. 31, "An Act to aid railroad communication to Montana territory," would most respectfully report under Council rules governing such committees, and submit the following :

That we, your committee, have not had the bill properly submitted for consideration in said committee; that the action of the majority has been such as to prevent any and all amendments from being proposed, much less acted upon in the said committee. That we, the signers hereto, were not asked or advised with regard to the action of the said committee, nor was their report on the bill canvassed in the said committee with your said signers; nor was any opportunity afforded for a canvass of the same. Fully believing this action to not only have been illegal in form, but sustained by no creditable precedent in the history of legislation, we, the minority of your committee, deem it fitting to here enter our protest against such action, involving an appropriation of a magnitude never before attempted; for the reason that this bill appropriates out of the territorial treasury the enormous sum of \$200,000, unasked by Jay Gould and others, to build up one section of our territory to the prejudice of the other, for which all are taxed alike; for the reason that the bill does not in many particulars correspond with the purported proposition of Jay Gould and others, and therefore forms no part of a contract between the people and the individuals who propose to incorporate; that the line of the contemplated road, as designated in the bill, wholly and unnecessarily avoids the most prosperous and largest bullion producing county in our territory.

WATERBURY.

HAYS.

Mr. Tatem moved to adopt the majority report.

Mr. Waterbury moved to amend by adopting the minority report; which was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

The majority report was adopted.

Mr. Mitchell presented a petition from citizens of Beaver Head county, asking for the submission of Jay Gould and others' proposition to build a railroad to the people.

Mr. McAdow introduced C. B. No. 58, "An Act in relation to floating timber in small streams;" was read the first and second times, and referred to the Committee on Roads and Highways.

The following communications were received:

HOUSE OF REPRESENTATIVES, }
February 13th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that Messrs. McCormick, Vivion, and Galen have been appointed a committee of conference to confer with a like committee from the Council upon House amendments to C. B. No. 8; and the Council are requested to appoint a similar committee.

Respectfully,

A. H. BARRET, *Chief Clerk.*

HOUSE OF REPRESENTATIVES, }
February 13th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that notices were given as follows:

By Mr. Howell—a bill to insure protection to persons and property.

Also, "An Act to amend an act concerning license," approved May 8th, 1873.

Also, a bill to provide for the care and custody of the arms and ammunition belonging to the territory, and for other purposes.

By Mr. Davis—"An Act to protect public interests."

By Mr. Robinson—"An Act to authorize the administrator of the estate of John H. Rodgers to sell the property of said estate."

Also, "An Act relating to homesteads."

That the following bills were introduced:

By Mr. Vivion—H. B. No. 66, "An Act to amend section 4 of an act entitled 'An Act relating to county commissioners,'" approved January 9th, 1872.

By Mr. Hyde—H. B. No. 67, "An Act to prevent trespass."

By Mr. Kessler—H. B. No. 68, "An Act concerning the county poor."

By Mr. Davis—H. B. No. 69, "An Act to provide for the resurvey of the town of Helena."

That the following bills passed the House:

Substitute for C. B. No. 12, "An Act for the benefit of common schools;"

C. B. No. 6, "An Act in relation to printing," with amendments;

C. B. No. 44, "An Act to regulate the election of county commissioners;"

H. J. R. No. 2;

C. J. R. No. 2;

H. B. No. 61, "An Act relating to probate courts, and the estates of deceased persons."

That C. B. No. 33, "An Act concerning divorce," was indefinitely postponed.

All of which are herewith transmitted.

I am also directed to transmit to the Council the accompanying petition from citizens of Deer Lodge county.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. J. R. No. 2, to pay an expert for examining the Treasurer's and Auditor's books; also, C. B. No. 44, "An Act to regulate the election of county commissioners," were ordered enrolled.

Mr. Hays moved that the Council do not concur in House amendments to C. B. No. 6, "An Act in relation to printing," and ask the House to recede; which motion prevailed.

On motion of Mr. Mitchell, the Council concurred in House substitute to C. B. No. 12, "An Act for the benefit of common schools," and the bill was ordered enrolled.

On motion of Mr. Hays, the President appointed Messrs. Hays, Cullen, and Watson a committee of conference on C. B. No. 8, "An Act in relation to swine."

H. J. R. No. 2 was read the first and second times, and referred to the Committee on Internal Improvements.

Mr. Tatem moved that the rules be suspended, H. B. No. 61, "An Act relating to probate courts and estates of deceased persons," be read first and second times by title, and referred to the Committee of the Whole. Carried.

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

Nays—Hays, Mitchell, Waterbury, and Mr. President—4.

Mr. Hays moved that H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," be referred to a special committee, with instructions to thoroughly examine the same and report whether any alterations have been made therein since it came from the House.

On motion of Mr. Cullen, the bill was read for information and amendment.

Mr. Hays offered the following amendment:

To the Honorable the Legislative Assembly of the Territory of Montana :

Your petitioners would respectfully represent that we are all the persons in this glorious republic that are able or willing to aid or assist your indigent constituents in procuring railroad communication with the outside world. We would therefore petition your honorable body to pass some law whereby we can get hold of two or three million dollars of your bonds; and your petitioners will ever pray, etc.

ROYAL M. BASSETT,
SIDNEY DILLON,
J. GOULD,
And others,

By Business Agent.

Mr. Mitchell offered the following amendments:

Amend section 2 by inserting after the word "Clarke," in line 11 of said section, the following: "And a division or branch thereof from any point near the mouth of said Pipestone Creek to the town of Butte, Deer Lodge county;" also, by striking out the word "seven," in line 12 of said section, and by inserting in lieu thereof the word "eight."

Mr. Waterbury moved to adopt the amendment.

The President announced that he was about to sign the following bills: H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railroad;" H. B. No. 58, "An Act to change the name of the Stinking Water river;" H. B. No. 35, "An Act for the relief of W. F. Wheeler;" H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana;" H. J. R. No. 4, two copies; C. B. No. 15, "An Act concerning elections."

Mr. Mitchell's amendment to H. B. No. 31 was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

Mr. Hays moved to take a recess until 2 o'clock P. M.; which motion was lost by the following vote:

Ayes—Ford, Hays, Mitchell, Waterbury, and Mr. President—5.

Nays—Allebaugh, Brown, Constans, Cullen, Lewis, McAdow, Tatem, and Watson—8.

Mr. Hays offered the following amendment, and moved its adoption:

Amend section 2, line 11, by inserting after the words "Lewis and Clarke," the words "all property, money, or other thing of value, except property belonging to the United States, and the territory of Montana, and the public schools of this territory, shall be subject to taxation, and."

The amendment was lost by the following vote:

Ayes—Hays and Mr. President—2.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, Waterbury, and Watson—10.

Excused—Mr. Mitchell.

Mr. Waterbury moved to take a recess until 2 o'clock P. M.; which motion was lost by the following vote:

Ayes—Brown, Hays, Mitchell, Waterbury, and Mr. President—5.

Nays—Allebaugh, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—8.

Mr. Tatem moved that the rules be suspended and the intervening sections between sections 3 and 14 be omitted in the reading; which motion prevailed.

Mr. Watson offered the following amendment to section 14, and moved its adoption:

“Every railroad constructed within this territory, of the same width of track, shall have the right, with its road, to intersect, connect with, and cross the road provided for in this act; and said company shall receive and transport passengers, tonnage, and cars, loaded or empty, without delay or discrimination.”

The amendment was lost by the following vote:

Ayes—Hays, Waterbury, and Watson—3.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Mitchell, McAdow, Tatem, and Mr. President—10.

Mr. Tatem moved to suspend the rules, and read the bill third time by title. Lost by the following vote:

Ayes—Allebaugh, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—8.

Nays—Brown, Hays, Mitchell, Waterbury, and Mr. President—5.

Mr. Hays moved to take a recess until 3 o'clock P. M.; lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

Mr. Cullen moved to suspend rules, read the bill a third time by title, and put upon its final passage; which motion prevailed.

H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," was read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Lewis, McAdow, Tatem, and Watson—8.

Nays—Ford, Hays, Mitchell, Waterbury, and Mr. President—5.

Title agreed to.

Mr. Watson moved to take a recess until 3:30 o'clock P. M.

Mr. Mitchell moved to amend by taking a recess until 10 o'clock A. M. to-morrow; which amendment was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

And the Council took a recess until 3:30 o'clock P. M.

3:30 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

C. B. No. 41, "An Act in relation to the redemption of real property," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Ford, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—10.

Nays—Hays—1.

Absent—Brown and Cullen.

Title agreed to.

C. B. No. 35, "An Act to amend chapter 40 of the codified statutes," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Ford, Lewis, Mitchell, McAdow, Watson, and Mr. President—9.

Nays—Hays, Tatem, and Waterbury—3.

Absent—Brown.

Title agreed to.

On motion of Mr. Tatem, the title was amended to read "An Act in relation to liens."

Mr. Lewis reported as follows:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 4, "An Act to facilitate the construction of the Helena and Benton Railriad;" also, H. B. No. 35, "An Act for the relief of W. F. Wheeler;" also, H. B. No. 58, "An Act to change the name of the Stinking Water river;" also, H. B. No. 22, "An Act to encourage the manufacture of woolen fabrics in the territory of Montana;" also, H. J. R. No. 4, thanks to J. P. Woolman; also, C. B. No. 15, "An Act concerning elections," respectfully report that they presented each of said bills to the Governor for his action, at 2:30 o'clock P. M., February 13th, 1877.

I. I. LEWIS, *Chairman*.

The conference committee reported as follows:

MR. PRESIDENT:—Your committee of conference appointed to meet a like committee from the House, to confer upon C. B. No. 8, entitled "An Act in relation to swine," have discharged that duty, and beg leave to report that the House committee will recommend the House to recede from its amendment with reference to the number of inhabitants in any town or village to which the provisions of

the act shall apply; and we respectfully recommend that the Council concur in the amendment with reference to its application in Missoula county.

HAYS.
WATSON.

Report adopted.

Mr. Cullen called up H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory;" and the clerk was instructed to transmit the bill to the House, and request that body to amend their amendment so as to make it read "volumes," instead of "volume."

The Committee on Towns and Counties reported as follows:

MR. PRESIDENT:—Your Committee on Towns and Counties, to whom was referred H. B. No. 43, "An Act to authorize the several counties of this territory to change their county seats on certain conditions," beg leave to report the same back to the Council, with the recommendation that it do not pass.

Respectfully submitted,

WATSON.
HAYS.

Mr. Waterbury moved that the report be adopted; which motion was lost by the following vote:

Ayes—Allebaugh, Hays, Mitchell, Waterbury, Watson, and Mr. President—6.

Nays—Constans, Cullen, Ford, Lewis, McAdow, and Tatem—6.

Absent—Brown.

The following report was received:

MR. PRESIDENT:—Your Committee on Roads and Highways, to whom was referred C. B. No. 54, "An Act to amend section 18 of an act entitled 'An Act in relation to roads and highways,'" beg leave to report the same back, with a substitute, and recommend the substitute be adopted.

HAYS.
FORD.

On motion of McAdow, the substitute reported was adopted, and ordered engrossed.

The following report was received:

MR. PRESIDENT:—Your Committee on Roads and Highways, to whom was referred C. B. No. 58, "An Act in relation to floating timber in small streams," have had the same under consideration, and respectfully report said bill back, with the following amendment: Strike out "the small streams," after the word "use," in line 3, section 1, and insert, "Bozeman Creek, Gallatin county."

With this amendment, we recommend the passage of said bill.

HAYS.

FORD.

ALLEBAUGH.

On motion of Mr. Waterbury, the report was adopted, and the bill ordered engrossed.

The following report was received:

MR. PRESIDENT:—Your special committee of one from each county interested, to whom was referred H. B. No. 25, "An Act to consolidate the county offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula counties," beg leave to report the same back to the Council, with the following amendment: Strike out "Beaver Head," and insert "Gallatin," wherever the word "Beaver Head" occurs in the bill.

Thus amended, your committee recommend its passage.

I. I. LEWIS.

HAYS.

WATSON.

FORD.

On motion of Mr. Hays, the amendment reported was adopted, and ordered engrossed.

Mr. Hays moved to adjourn; which motion was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—8.

Mr. Tatem moved to take a recess until 7 o'clock P. M.; which motion prevailed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—8.

Nays—Hays, Mitchell, Waterbury, and Mr. President—4.

And the Council took a recess until 7 o'clock P. M.

7 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

The following reports were received:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 57, "An Act authorizing the appointment of deputy assessors," have instructed me to report the same back to the Council, with the following amendment: In section 1, line 2, after the word "county," insert "by and with the consent of the board of county commissioners of such county."

And with this amendment, your committee recommend its passage.

W. E. CULLEN.

On motion of Mr. Ford, the amendment reported was adopted, and the bill ordered engrossed.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred C. B. No. 3, entitled a bill for "An Act to facilitate the conviction of robbers," together with the substitute therefor, have instructed me to report the same back, and recommend the passage of the substitute.

W. E. CULLEN, *Chairman*.

On motion, the substitute, as an amendment, was adopted, and ordered engrossed.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 13th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that the substitute for H. B. No. 52, a bill for "An Act in relation to the collection and disbursement of the revenues of Missoula county, and for other purposes;" H. B. No. 38, "An Act concerning stallions;" H. B. No. 19, "An Act concerning license," approved May 8th, 1873; C. B. No. 30, "An Act to provide against accidents in case of fire," with amendments; C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary;" C. B. No. 23, "An Act to amend section 4 of an act to protect fur-bearing animals, game, and fish in the territory of Montana," approved February 6th, 1876, with amendments; C. B. No. 47, a bill for "An Act to establish names to certain streams in Deer Lodge county;" C. J. M. No. 4, in relation to certain territorial officers—have passed the House.

That C. B. No. 29, "An Act in relation to married women," and C. B. No. 38, "An Act authorizing the county commissioners of Gallatin county to issue bonds for the purpose of constructing a public highway," were indefinitely postponed.

That C. B. No. 45, "An Act to amend section 306 of the criminal practice act of Montana territory," approved January 12th, 1872; also, C. B. No. 22, "An Act to amend section 190 of chapter 3 of an act entitled 'An Act to regulate proceedings in civil cases in the courts of justice of Montana territory,'" approved January 12th, 1872, were read the third time and lost.

All of which are herewith transmitted.

That C. B. No. 26, "An Act concerning apprentices," was laid on the table.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Brown, the Council concurred in House amendments to C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876, and the bill was ordered enrolled.

On motion of Mr. McAdow, the Council concurred in House amendment to C. B. No. 30, "An Act to provide against accidents in case of fire," and the bill was ordered enrolled.

C. B. No. 47, An Act to establish names to certain streams in Deer Lodge county;" C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary;" C. J. M. No. 4, in relation to certain territorial officers," were ordered enrolled.

The following reports were received from the Committee on Engrossment :

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 53, "An Act to exempt certain manufactories from taxation for a term of years," having carefully examined the said bill, find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. C. R. No. 7, in relation to printing, have examined the same and find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 58, "An Act in relation to floating timber in small streams," having carefully examined the same, find the same correctly engrossed.

BROWN, *Chairman*.

Mr. Watson moved that H. B. No. 43, "An Act to authorize the several counties of this territory to change their county seats on certain conditions," be referred to a select committee; which motion was lost.

Mr. Waterbury moved to adjourn; which motion was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, McAdow, Tatem, and Watson—8.

H. B. No. 52, "An Act in relation to the collection and disbursement of the revenues of Missoula county, and for other purposes," was read first and second times, and referred to the member and joint member of Missoula.

H. B. No. 19, "An Act to amend an act concerning license," was read first and second times, and referred to Judiciary Committee.

H. B. No. 38, "An Act concerning stallions," was read first and second times, and, on motion of Mr. Mitchell, was referred to the single members of the Council, Mr. Allebaugh chairman.

H. B. No. 25, "An Act to consolidate the county offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula counties," was read third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Ford, Hays, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—10.

Nays—Brown and Cullen—2.

Absent—Mr. Lewis.

Title amended by striking out "Beaver Head," and inserting "Gallatin."

C. C. R. No. 7, in relation to printing, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

H. B. No. 43, "An Act to authorize the several counties of this territory to change their county seats on certain conditions," on motion of Mr. Hays, was recommitted to same committee.

C. B. No. 58, "An Act in relation to floating timber in small streams," was read third time, and passed by the following vote;

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Cullen.

On motion of Mr. Ford, the title was amended to read "An Act in relation to floating timber in Bozeman Creek, Gallatin county."

A call of the House was ordered.

Roll called—absent, Mr. Cullen.

The Sergeant-at-Arms was directed to bring in the absentee.

Mr. Hays moved that further proceedings under the call be dispensed with; which motion was lost by the following vote:

Ayes—Hays, Mitchell, McAdow, Waterbury, and Mr. President—5.

Nays—Allebaugh, Brown, Constans, Ford, Lewis, Tatem, and Watson—7.

Absent—Mr. Cullen.

Mr. Hays moved to adjourn; which motion was lost by the following vote:

Ayes—Hays, Mitchell, Waterbury, and Mr. President—4.

Nays—Allebaugh, Brown, Constans, Ford, Lewis, McAdow, Tatem, and Watson—8.

On motion, further proceedings under the call were dispensed with.

C. B. No. 53, "An Act to exempt certain manufactories from taxation for a term of years," was read third time, and passed by the following vote:

Ayes—Brown, Hays, Lewis, Mitchell, Tatem, Waterbury, Watson, and Mr. President—8.

Nays—Allebaugh, Cullen, Ford, and McAdow—4.

Absent—Mr. Constans.

Title agreed to.

Mr. Brown moved to reconsider.

Mr. Watson moved to lay the motion on the table; which motion prevailed.

Mr. Lewis offered to report from the Enrolling Committee.

Mr. Mitchell objected to the reception of the report.

Mr. Cullen moved to have the enrolled bill, H. B. No. 31, read for information.

The chair ruled the motion out of order.

Mr. Cullen appealed, and the chair was not sustained, by the following vote:

Ayes—Hays, Mitchell, and Waterbury—3.

Nays—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, McAdow, Tatem, and Watson—9.

And the bill was read by the Clerk.

The following report was received:

MR. PRESIDENT:—The Joint Enrollment Committee of the two Houses of the Legislative Assembly of the tenth session, to whom was referred H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," respectfully report that they have examined the enrolled bill, and compared it with the original bill, and find it correctly enrolled.

LEWIS,

On the part of the Council.

The President announced that he was about to sign H. B. No. 31, "An Act to aid in the construction of a railroad to Montana."

Mr. Cullen moved to adjourn; which motion was lost.

Mr. Hays moved to suspend the rules. Lost.

On motion of Mr. Cullen, the Council adjourned.

HARRY R. COMLY, *Chief Clerk.*

THIRTY-EIGHTH DAY.

COUNCIL CHAMBER, }
February 14th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

The following reports were received:

MR. PRESIDENT—Your committee to whom was referred H. B. No. 38, "An Act concerning stallions," beg leave to report that we have carefully examined the same, and respectfully recommend that the bill do pass.

ALLEBAUGH.
MCADOW.
BROWN.

MR. PRESIDENT:—Your Joint Enrolling Committee of the two Houses, tenth session, Legislative Assembly of the territory of Montana, to whom was referred H. B. No. 31, "An Act to aid in the construction of a railroad to Montana," respectfully report that they presented the same to the Governor for his action at 11:53 P. M., February 13th, 1877.

I. I. LEWIS,
Chairman of Joint Committee.

MR. PRESIDENT:—The Committee on Towns and Counties, to whom was referred H. B. No. 43, "An Act to authorize the several counties of this territory to change their county seats on certain conditions," beg leave to report the same back to the Council, with the following proviso: "*Provided*, this act shall not apply to any county in this territory except the county of Jefferson."

Respectfully submitted,

WATSON.
HAYS.
BROWN.

On motion of Mr. Watson, the report was adopted.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 14th, 1877. }

MR. PRESIDENT:—I am instructed to inform your honorable body that H. B. No. 9, "An Act to amend an act entitled 'An Act to provide for a system of common schools,'" has passed the House, and is herewith transmitted.

That H. B. No. 36 was laid on the table.

Respectfully,

A. H. BARRET, *Chief Clerk.*

The following report was received:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 54, substitute for "An Act to amend sections 18 and 19 of an act relative to roads and highways," approved February 12th, 1876, having carefully examined the said bill, find the same correctly engrossed.

BROWN, *Chairman.*

H. B. No. 9, "An Act to amend an act entitled 'An Act to provide for a system of common schools,'" was read the first and second times, and referred to the Committee on Education.

On motion of Mr. Mitchell, C. B. No. 54, "An Act to amend sections 18 and 19 of an act in relation to roads and highways," approved February 12th, 1876, was referred to Messrs. Mitchell, Brown, Waterbury, and Hays.

Council went into Committee of the Whole on the general orders.

Council resumed—Mr. President in the chair.

On motion of Mr. Ford, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M. — Council resumed — Mr. President in the chair.

Roll called — quorum present.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 14th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 10, "An Act to authorize the holding of county teachers' institutes," has passed the House.

That H. B. No. 51, "An Act to provide means to increase the sinking fund of Missoula county;" also, C. B. No. 3, "An Act to provide a system of common schools," were indefinitely postponed in the House.

That the House has receded from their amendments to C. B. No. 8, "An Act in relation to swine."

That the House refuse to concur in Council amendments to H. B. No. 25, "An Act to consolidate the offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula," and respectfully ask the Council to recede therefrom.

That the House has concurred in Council amendment to House amendment to Council amendment to H. B. No. 33, "An Act to provide for publishing the supreme court reports of Montana territory."

That bills have been introduced :

By Mr. Howell — H. B. No. 70, "An Act to provide for the care and custody of the arms belonging to the territory of Montana, and for other purposes."

By Mr. Davis — H. B. No. 71, "An Act to protect the public interest."

By J. G. Sanders — H. B. No. 72, "An Act to prescribe the duties of county commissioners."

By Mr. Robinson — H. B. No. 73, "An Act relating to homesteads."

Also, H. B. No. 74, "An Act to authorize the administrator of the estate of Jno. H. Rodgers, deceased, to sell the property of said estate."

By W. F. Sanders—H. B. No. 75, "An Act to amend the Helena incorporation act."

By Mr. Robinson—H. B. No. 76, a bill for "An Act to amend an act to establish and regulate the fees of assessors, coroners, and other officers."

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Watson moved that the Council insist on Council amendments to H. B. No. 25, "An Act to consolidate the offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula counties;" which motion prevailed.

The following report was received:

MR. PRESIDENT:—Your Committee of the Whole, to whom was referred C. B. No. 55, entitled "An Act to re-enact section 3 of the revenue act, providing for the collection of revenue" (codified statutes), have instructed me to report the same back, and recommend that it be indefinitely postponed.

W. E. CULLEN, *Chairman.*

Mr. Lewis moved to adopt the report.

Mr. Hays moved to recommit to a special committee; which motion was lost, the report of the committee adopted, and the bill indefinitely postponed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Lewis, Mitchell, Tatem, Waterbury, and Watson—9.

Nays—Ford, Hays, McAdow, and Mr. President—4.

On motion of Mr. Tatem, the following document was ordered spread on the minutes:

BANKING HOUSE OF
L. H. HERSHFIELD & BRO.,
HELENA, M. T., February 12th, 1877. }

D. H. Weston, Esq., Treasurer of the Territory of Montana:

DEAR SIR:—We are in receipt of your valued communication bearing this date, and in reply to the several interrogatories contained therein, we would state as follows:

First. Your account as Treasurer of the territory has been kept with our house, and we know nothing to incline us to the belief that it has not been the sole depository of the funds of the territory from the very first day you took possession of your present office.

Second. The balance to your credit as Treasurer on the first day of January, 1877, as indicated by our books, was sixteen thousand six hundred and eighty-five dollars and seventy-five cents (\$16,685.75).

Third. No part of the territorial money has been transferred to a special deposit, drawing interest at any time, nor has it been diverted to any purpose whatsoever, outside of the legitimate requirements and necessities of your office.

Fourth. Your private account has been and is now kept entirely separate and distinct from your official account.

Fifth. No arrangement has ever existed making your account as Treasurer appear otherwise than its actual status. Our firm would never consent to the keeping of an account that required a showing different from what our books indicated, thereby becoming a party to what was false and erroneous.

Sixth. We have never allowed you any interest nor any compensation in whatever shape, for the use of territorial funds on deposit with us.

Seventh. We have no knowledge tending to indicate that the funds of the territory in your charge have been diverted to uses and purposes other than those of a legitimate character, and within the line of your official requirements.

Trusting that our answers to your inquiries have been sufficiently full and explicit, and tendering you our assurances of respect and high esteem, we remain,

Very respectfully,

L. H. HERSHFIELD & BRO.

The following report was received and adopted:

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was referred H. J. R. No. 2, respectfully report the same back to the Council, with the following amendment: Strike out all after the word “authorize,” in line 5, up to and including the word “house,” in line 12, and insert in lieu thereof the following: “by publication for three weeks in a newspaper published at the capital of the territory, inviting proposals for the care and maintenance of the indigent insane of Montana territory, and to let the contract to the lowest responsible bidder; but the Governor shall have the right to reject any and all bids, and make private contract, provided such contract can be made at less price than any bid made under publication for proposals.”

Also, add to the resolution the following: “*Provided, further,* That idiotic persons shall be classed with insane persons, under the provisions of this act.”

And recommend that the resolution, thus amended, do pass.

MITCHELL.

MCADOW.

LEWIS.

The Engrossment Committee reported as follows:

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 57, a bill for “An Act authorizing the appointment of deputy assessors,” having carefully examined the same, find the same correctly engrossed.

BROWN, *Chairman*.

The following reports were received:

MR. PRESIDENT:—Your Committee on Education and Labor respectfully submit the following majority report upon H. B. No. 9, “An Act to amend an act entitled ‘An Act to provide for a system of common schools:’” The change in present law made by the said bill is to state the “month,” instead of the “year,” in which the census for apportionment of funds is to be made, and therefore recommend its passage.

TATEM.

CONSTANS.

MR. PRESIDENT:—Your Committee on Education, to whom was referred H. B. No. 9, would respectfully report the same back to the Council, and recommend the following amendment: Strike out the “proviso,” and insert the following: “*Provided*, That Indian children whose parents pay taxes, shall be included in the apportionment.”

And, with the amendment, recommend its passage.

MCADOW, *Chairman*.

Mr. Tatem moved to adopt the majority report.

Mr. Ford moved to amend by adopting the minority report; which motion prevailed, and the amendments were ordered engrossed for a third reading.

C. B. No. 57, “An Act authorizing the appointment of deputy assessors,” was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

The Council went into Committee of the Whole to consider the general orders.

Council resumed.

On motion, the Council took a recess until 7 o'clock P. M.

7 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

On motion of Mr. Hays, the vote by which H. B. No. 31, “An Act to aid in the construction of a railroad to Montana,” passed the

Council, was reconsidered. [Stricken out by action of the Council, February 15th, 1877.]

H. B. No. 10, "An Act to authorize the holding of county teachers' institutes," was read the first and second times, and referred to the Committee on Education.

Mr. McAdow was granted leave of absence for the evening.

Mr. Cullen reported as follows:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 59, "An Act to provide a code of civil procedure in the territory of Montana," would respectfully report the same back to the Council, recommending its passage, with the following amendments, to-wit:

Section 23, line next to last, between "if" and "were," insert "it."

In section 121, strike out, in printed matter, "eighty-one," and insert "one hundred and nineteen."

In section 184, line 8, printed matter, strike out "any," and insert "and."

In section 194, in printed matter, strike out "one hundred and fifty-five," and insert "one hundred and ninety-seven."

Section 285, at close of section, printed matter, add portion omitted, viz: "ing the application."

In section 499, in line 2, strike out the word "appellant," and insert "appellate."

In section 655, line 1, after "in," insert "an."

In section 668, line 3, insert in blank left for that purpose, the words "six hundred and sixty-five."

In section 675, line 3, strike out "July," and insert "August."

Amend chapter 3, title 7, by inserting the following in lieu of section 241:

"Section 241. In actions for the recovery of specific real property, with or without damages, and for an injunction to stay waste, or for money claimed as due upon contract, or as damages for

breach of contract, or for injuries, an issue of fact must be tried by a jury, unless a jury trial is waived, or a reference is ordered by consent of parties.

"In all cases where there are issues of both law and fact, the issues of law must be first disposed of, and in all cases issues of fact must be tried by a jury (except in actions which involve the settlement of accounts between parties), unless a jury shall be waived by the parties."

Amend section 84, at close of second sub-division, by adding the following: "and for an injunction to stay waste or injury thereto."

Amend section 675 of said act by adding thereto the following: "except chapter 2 of title 15, and 10 of title 7, and section 84 of chapter 2 of title 5, and section 241 of chapter 3 of title 7, which shall take effect and be in force from and after its passage."

W. E. CULLEN, *Chairman*.

On motion of Mr. Cullen, the amendments reported were adopted and ordered engrossed.

Mr. Hays offered an amendment: Amend H. B. No. 59, by adding to the bill a new section, as follows:

"Section 554. This act shall take effect and be in force from and after the first day of February, A. D. 1879."

Mr. Cullen, from Committee of the Whole, reported:

MR. PRESIDENT:—Your Committee of the Whole, to whom was referred H. B. No. 61, "An Act to regulate proceedings in probate courts," have instructed me to report the same back to the Council and recommend its passage.

W. E. CULLEN, *Chairman*.

On motion, the report was adopted.

H. B. No. 3, "An Act imposing certain duties upon the Governor of the territory," was read third time, and passed, as amended, by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. McAdow.

On motion of Mr. Mitchell, the title was amended by striking out “robbers,” and inserting “criminals.”

H. B. No. 9, “An Act to amend an act entitled ‘An Act to provide a system of common schools,’ was read third time, and passed, as amended, by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, Waterbury, and Mr. President—9.

Nays—Cullen, Tatem, and Watson—3.

Absent—Mr. McAdow.

Title agreed to.

Mr. Mitchell moved to reconsider.

Mr. Ford moved to lay on the table; which motion was lost, and the motion to reconsider prevailed.

On motion of Mr. Mitchell, the bill was recommitted to Watson, Brown, and Tatem.

H. B. No. 38, “An Act concerning stallions,” was recommitted to the same committee.

Mr. Cullen offered the following amendment to H. B. No. 61, the probate act: Add to said bill the following additional section:

“Section —. This act shall take effect on the first day of July, A. D. 1877, and the act mentioned in the last preceding section shall continue in force until the date last aforesaid.”

On motion of Mr. Cullen, the amendment was adopted.

Mr. Hays offered the following amendment: Add to the bill a new section, as follows:

“Section —. This act shall take effect and be in force from and after the first day of February, A. D. 1879.”

Mr. Tatem moved to suspend the rules, and read the bill by title the third time; which motion prevailed.

H. B. No. 61, "An Act relating to probate courts and estates of deceased persons," was read a third time by title, and passed, as amended, by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Mitchell, Tatem, Waterbury, and Watson—10.

Nays—Hays and Mr. President—2.

Absent—Mr. McAdow.

Title agreed to.

H. J. R. No. 2 was recommitted to the Committee on Internal Improvements.

H. B. No. 43, "An Act to authorize the several counties of the territory to change their county seats on certain conditions," was read a third time, and passed, as amended, by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Waterbury, and Watson—9.

Nays—Mitchell, Tatem, and Mr. President—3.

Absent—Mr. McAdow.

Title agreed to.

Messrs. Bass and Waterbury reported as follows:

MR. PRESIDENT:—Your special committee to whom was referred H. B. No. 52, "An Act in relation to the collection and disbursement of the revenues of Missoula county, and for other purposes," have had the same under consideration, and respectfully beg leave to report the following amendments:

Amend section 1, second page, line 16, by striking out "fifteen" and inserting "ten." In fifth line, section 4, strike out "ten" and insert "six;" strike out of eighth line, section 4, "seven" and insert "five;" strike out in nineteenth line the words "four mills and not exceeding." In twenty-fifth line strike out "six" and insert

“two, provided no levy of this said tax, under the last above mentioned provision, shall be made in the year 1877.” Strike out of line 38 the word “five” and insert “three.”

Amend section 10 by striking out all the section after the word “drawn,” in tenth line.

Strike out of section 12, in sixth line, the word “form,” and in seventh line the word “said.”

With the above amendments inserted, we recommend the bill do pass.

BASS.

WATERBURY.

On motion of Mr. Waterbury, the amendments were adopted and ordered engrossed.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 14th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 74, “An Act to authorize the administrator of the estate of Jno. H. Rodgers to sell real estate;” H. B. No. 75, “An Act to amend the Helena incorporation act;” substitute for H. B. No. 41, “An Act to protect persons and property;” C. B. No. 51, “An Act to provide for the support of the Helena fire department;” C. B. No. 52, “An Act to legalize the action of the county commissioners of Gallatin county,” with amendments; C. B. No. 56, “An Act to provide for the support and maintenance of the Butte City fire department”—have passed the House and are herewith transmitted.

That the House has appointed Messrs. Brainard, Vivion, Ives, and Witter a conference committee upon H. B. No. 25, “An Act to consolidate the offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula,” and respectfully ask the Council to appoint a like committee.

That H. C. R. No. 5 has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred Council amendments to H. B. No. 59, "An Act to provide a code of civil procedure for the territory of Montana," having carefully examined the same, find the same correctly engrossed.

BROWN, *Chairman*.

On motion of Mr. Hays, the Council concurred in House amendments to C. B. No. 52, "An Act to legalize the action of the county commissioners of Gallatin county," and the bill was ordered enrolled.

On motion of Mr. Hays, Mr. President appointed Lewis, Watson, Ford, and Waterbury a committee of conference on H. B. No. 25, "An Act to consolidate the offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula."

On motion of Mr. Cullen, H. C. R. No. 5, asking the Governor to keep a record of the time of approval, was adopted.

C. B. No. 51, "An Act to provide for the support of the Helena fire department," also C. B. No. 56, "An Act to provide for the support and maintenance of the Butte City fire department," were ordered enrolled.

H. B. No. 59, "An Act to provide a code of civil procedure in the territory of Montana," was read the third time by title, and passed, as amended, by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Mitchell, Tatem, and Watson—9.

Nays—Hays, Waterbury, and Mr. President—3.

Absent—Mr. McAdow.

Title agreed to.

H. B. No. 75, "An Act to amend the Helena incorporation act," was read the first and second times, and referred to the members from Lewis and Clarke county.

H. B. No. 74, "An Act to authorize the administrator of the estate of John H. Rodgers, deceased, to sell the property of said

estate," was read the first and second times, and, on motion of Mr. Mitchell, the rules were suspended, the bill read a third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, Tatem, Waterbury, Watson, and Mr. President—11.

Nay—Ford—1.

Absent—Mr. McAdow.

Title agreed to.

H. B. No. 41, "An Act to protect persons and property," was read the first and second times, and Mr. Mitchell moved to refer to Judiciary Committee, and Mr. Brown moved to amend by referring to Committee on Mines and Minerals.

Mr. Mitchell moved to adjourn. Lost.

The motion to refer to the Committee on Mines and Minerals was lost, and the bill was referred to the Committee on Judiciary.

The following reports were received:

MR. PRESIDENT:—Your Joint Enrollment Committee of the two Houses of the Tenth Legislative Assembly, to whom was referred H. B. No. 14, "An Act re-apportioning the members of the Legislative Assembly;" also, H. B. No. 1, "An Act to establish and maintain an insane asylum, and otherwise provide for the insane of the territory," respectfully report the said bills correctly enrolled.

LEWIS, *Chairman*.

MR. PRESIDENT:—Your Joint Enrollment Committee of the two Houses of the Tenth Legislative Assembly, to whom was referred C. B. No. 44, "An Act to regulate the election of county commissioners;" also, C. J. R. No. 2, to pay an expert for examining the Treasurer's and Auditor's books, respectfully report the same correctly enrolled.

LEWIS, *Chairman*.

On motion of Mr. Ford, the Council adjourned until to-morrow at 10 o'clock A. M.

HARRY R. COMLY, *Chief Clerk*.

THIRTY-NINTH DAY.

COUNCIL CHAMBER, }
February 15th, 1877. }

Council met pursuant to adjournment, at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. David Morton, Chaplain.

Journal of yesterday read.

Mr. Cullen moved to strike out that portion of the minutes of yesterday reading as follows: "On motion of Mr. Hays, the vote by which H. B. No. 31, 'An Act to aid in the construction of a railroad to Montana,' passed the Council, was reconsidered."

Mr. Ford demanded the previous question, which was seconded by a majority, and Mr. Cullen's motion prevailed.

The minutes of yesterday, as amended, were approved.

Mr. President announced that he was about to sign H. B. No. 1, "An Act to establish and maintain an insane asylum, and otherwise provide for the insane of the territory;" also, C. B. No. 44, "An Act to regulate the election of county commissioners;" also, C. J. R. No. 2, to pay an expert for examining the Treasurer's and Auditor's books; also, H. B. No. 14, "An Act re-apportioning the members of the Legislative Assembly."

C. B. No. 59, "An Act concerning dogs," was read first and second times, and, on motion of Mr. Cullen, was referred to the Committee on Ways and Means.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 15th, 1877. }

MR. PRESIDENT:—The House directs me to inform your honorable body that the House refuse to recede from their amendments to C. B. No. 6, "An Act in relation to printing."

That the House has concurred in Council amendments to H. B. No. 59, and H. B. No. 61.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Watson, the Council adhered to its action in refusing to concur in House amendments to C. B. No. 6, "An Act in relation to printing."

The following reports were received:

MR. PRESIDENT:—The Joint Enrolling Committee of the two Houses of the Tenth Legislative Assembly, to whom was referred H. B. No. 14, "An Act re-apportioning the members of the Legislative Assembly;" also, H. B. No. 1, "An Act to establish and maintain an insane asylum, and otherwise provide for the insane of the territory;" also, C. B. No. 44, "An Act to regulate the election of county commissioners;" also, C. J. R. No. 2, to pay an expert for examining the Treasurer's and Auditor's books, respectfully report that they presented each of said bills to the Governor for his action, at 11:17 A. M., February 15th, 1877.

MITCHELL.

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 19, "An Act to amend an act concerning license," have instructed me to report the same back, recommending its passage, with the following amendment:

In line 7, section 2, strike out the word "twelve," and insert in lieu the word "five."

W. E. CULLEN, *Chairman.*

On motion of Mr. Tatem, the amendment was adopted.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 15th, 1877. }

MR. PRESIDENT:—I am instructed to inform your honorable body that H. J. R. No. 5, to pay Geo. D. C. Hibbs, as clerk of the Joint Judiciary Committee; H. B. No. 62, "An Act to regulate the sale of water and encourage the pursuits of industry," have passed the House.

That the House concurred in amendments reported by conference committee upon H. B. No. 25, "An Act to consolidate the county offices of Meagher, Chouteau, Jefferson, Beaver Head, and Missoula counties."

That H. B. No. 48, a bill to repeal "An Act to provide for the collection of statistics," has been indefinitely postponed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 62, "An Act to regulate the sale of water and encourage the pursuits of industry," was read first and second times, and referred to the Committee on Mines and Minerals and Mr. McAdow.

H. J. R. No. 5, to pay Geo. D. C. Hibbs, was read first and second times, and, on motion of Mr. Cullen, the rules were suspended, the resolution read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, Tatem, Waterbury, Watson, and Mr. President—12.

Nay—Mr. McAdow—1.

Title agreed to.

The following report was received:

MR. PRESIDENT:—Your committee of conference appointed to confer with a like committee on the part of the House, to whom was referred H. B. No. 25, "An Act to consolidate certain offices in certain counties, in the territory of Montana," have met the House committee, and said committee of conference have unanimously

agreed to the following: Strike out "Beaver Head," and insert in lieu thereof "Gallatin;" and add a proviso that said "Gallatin county shall be excepted from the provisions of the bill so far as the office of probate judge and county clerk (or recorder) is concerned."

LEWIS.

WATSON.

R. S. FORD.

On motion, the report was adopted.

The following report was received:

MR. PRESIDENT:—Your Committee on Education, to whom was referred H. B. No. 10, "An Act to authorize teachers' institutes," have had the same under consideration, and would respectfully report the same back to the Council, and recommend the following amendment: In the last line of section 4, strike out the word "contingent," and insert the word "school."

And, with that amendment, would recommend its passage.

McADOW.

TATEM.

CONSTANS.

Amendment adopted.

On motion of Mr. Waterbury, H. B. No. 52, "An Act in relation to the collection and disbursement of the revenues of Missoula county, and for other purposes," was read the third time by title, and passed, as amended, by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

On motion of Mr. Brown, the Council took a recess until 2 o'clock P. M.

2 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

Journal of morning session read and approved.

The following report was received, the amendments reported adopted, and the bill ordered engrossed:

MR. PRESIDENT:—Your committee of bachelors, to whom was referred H. B. No. 38, "An Act concerning stallions, asses, mules, ridglings, etc.," would recommend that the same do pass, with the following amendment, to-wit:

Insert the following as section 3:

"Section 3. Hereafter it shall be unlawful for any person in this territory to allow his rams to run at large between the first day of August and the first day of December of each year. Any sheep-grower who may suffer a loss from such rams running at large between the first day of August and the first day of December of each year, may collect from the owner of said rams such damages as he may sustain by reason thereof; to be sued for and recovered before any court of competent jurisdiction."

Re-number section 3.

ALLEBAUGH, *Chairman.*

"Any person or persons in this territory, who shall keep a stallion for service to mares, for which a compensation is charged and collected, shall pay into the county treasury of each county in which such stallion is kept, the sum of twenty-five dollars for the season; and the treasurer thereof shall issue to such owner or person having charge of such stallion, a license therefor."

The following report was received:

MR. PRESIDENT:—Your select committee composed of the members from Lewis and Clarke county, to whom was referred H. B. No. 75, "An Act to amend the Helena incorporation act," respectfully report that the object of the amendment to section 23, article 7, is to render more definite the provisions contained in the statute with reference to the re-submission of the charter, in case of its rejection at the first election. Section 1 of article 4 of the charter provides for an election of city officers on the third Monday of May, A. D. 1877; in case of the rejection of the charter at the first election, the election of city officers would be superfluous and unnecessary, and

it is to correct this inconsistency that the amendment contained in section 2 of the bill is directed.

We therefore recommend the passage of the bill.

CULLEN.

TATEM.

CONSTANS.

On motion of Mr. Tatem, the report was adopted.

On motion of Mr. Cullen, the rules were suspended, H. B. No. 75, "An Act to amend the Helena incorporation act," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—11.

Nays—Ford and Hays—2.

Title was agreed to.

The following report was received:

MR. PRESIDENT:—Your select committee to whom was referred C. B. No. 54, having had the same under consideration, beg leave to report the bill back, with the following amendments, and recommend its passage:

Add to section 20: "*Provided*, That no supervisor, under the provisions of this act, shall receive compensation for a horse and cart, or other vehicle and team, in any case except where he has under his charge, as such supervisor, two or more persons.

"*Provided, further*, That no supervisor, under the provisions of this act, shall cut, take, or destroy any shade tree or shrubbery, the property of another person, without the consent of the owner of such property. Any supervisor who shall knowingly violate the provisions of this act, and being duly convicted thereof, shall pay three times the value of the property so taken, cut, or destroyed.

"*Provided*, That supervisors' receipts for labor performed shall not be transferable, or used for the benefit of any other person than the one who has actually performed the labor, and whose name is

in the receipt; nor shall any supervisor's receipt for labor performed be good for any other year than that in which it is issued.

"Section 21. This act shall take effect and be in force from and after its passage."

MITCHELL.

BROWN.

HAYS.

The Committee on Mines and Minerals reported:

MR. PRESIDENT:—Your Committee on Mines and Minerals, to whom was referred H. B. No. 62, "An Act to regulate the sale of water, and encourage the pursuits of industry," have fully considered the same, and beg leave to report the bill back to the Council without amendment, and recommend the passage thereof.

LEWIS.

TATEM.

WATERBURY.

McADOW.

On motion of Mr. Tatem, the report was adopted.

Mr. Ford reported as follows:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 59, would recommend the following amendments:

Insert after the word "each," in fifth line of section 1, "owner of a;" after the word "upon," in sixth line, "owner of a."

Add to section 1: "And it is hereby made the duty of the collector of this tax, after reasonable inquiry, should no owner be found, to kill the said dog or bitch."

With the above amendments, we recommend that the same do pass.

WATERBURY.

FORD.

ALLEBAUGH.

Report adopted, and bill ordered engrossed.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 15th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. J. R. No. 6 has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. J. R. No. 6 was read first and second times, rules suspended, read third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Lewis, Mitchell, Tatem, and Watson—9.

Nays—Hays, McAdow, Waterbury, and Mr. President—4.

Mr. Lewis moved to reconsider.

Mr. Tatem moved to lay the motion on the table. Carried.

Mr. Mitchell reported:

MR. PRESIDENT:—Your Committee on Internal Improvements, to whom was recommitted H. J. R. No. 2, having had the same under consideration, beg leave to report the bill back to the Council, with amendment, and recommend its passage.

MITCHELL, *Chairman.*

Report adopted.

H. J. R. No. 2, in relation to the care of the insane, was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

H. B. No. 19, "An Act to amend an act concerning license," was read third time, and passed by the following vote:

Ayes—Allebaugh, Constans, Cullen, Ford, Hays, Lewis, and Tatem—7.

Nays—Brown, Mitchell, McAdow, Watson, and Mr. President—5.

Absent—Mr. Waterbury.

Title agreed to.

H. B. No. 10, "An Act to authorize the holding of county teachers' institutes," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Lewis, Mitchell, McAdow, Tatem, Watson, and Mr. President—9.

Nays—Cullen, Ford, and Hays—3.

Absent—Waterbury.

The title was agreed to.

H. B. No. 62, "An Act to regulate the sale of water and encourage the pursuits of industry," was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Cullen.

Title agreed to.

The Enrollment Committee reported:

MR. PRESIDENT:—The Joint Enrollment Committee of the two Houses of the tenth session of the Legislative Assembly, to whom was referred C. B. No. 8, "An Act in relation to swine;" also, C. B. No. 12, "An Act for the benefit of common schools;" also, C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876; also, C. B. No. 47, "An Act to establish names to certain streams in Deer Lodge county;" also, C. J. M. No. 1, in relation to a mail route from Bozeman City, Montana territory, to the city of Cheyenne, in the territory of Wyoming, four copies; also, H. J. M. No. 4, a joint memorial

asking Congress to aid in the maintenance of the free schools of the territory of Montana, four copies; also, H. B. No. 20, "An Act to protect the treasuries of the counties and of the territory of Montana;" also, H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge," respectfully report the same correctly enrolled.

LEWIS, *Chairman*.

The President announced that he was about to sign the following bills: H. J. M. No. 4; C. B. No. 12, "An Act for the benefit of common schools;" C. J. M. No. 1, in relation to mail route; C. B. No. 47, "An Act to establish names to certain streams in Deer Lodge county;" C. B. No. 8, "An Act in relation to swine;" C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876; H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge;" H. B. No. 20, "An Act to protect the treasuries of the counties and of the territory of Montana."

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 15th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 60, "An Act to provide for the copying of the laws for publication," has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk*.

H. B. No. 60, "An Act to provide for the copying of the laws for publication," was read the first and second times, and, on motion of Mr. Tatem, the rules were suspended, the bill read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—11.

Nays—None.

Absent—Cullen and Lewis.

On motion of Mr. Mitchell, the Council took a recess until 7 o'clock P. M.

7 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—no quorum present.

Mr. Hays moved a call of the House.

Roll called—absent, Allebaugh, Constans, Ford, Lewis, Mitchell, McAdow, and Waterbury.

On motion of Mr. Hays, further proceedings under the call were dispensed with.

Journal of afternoon session read and approved.

Mr. Lewis reported as follows:

MR. PRESIDENT:—The Joint Enrollment Committee of the two Houses of the tenth session of the Legislative Assembly, to whom was referred C. B. No. 8, "An Act in relation to swine;" also, C. B. No. 12, "An Act for the benefit of common schools;" also, C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876;" also, C. B. No. 47, "An Act to establish names to certain streams in Deer Lodge county;" also, H. B. No. 12, "An Act to authorize the Governor to contract for the keeping and maintenance of the territorial convicts in the United States penitentiary at Deer Lodge;" also, H. B. No. 20, "An Act to protect the treasuries of the counties and of the territory of Montana," respectfully report that they presented each of said bills to the Governor for his action, at 3:25 P. M., February 15th, 1877.

LEWIS, *Chairman*.

MR. PRESIDENT:—The Joint Enrollment Committee of the two Houses of the Legislative Assembly, to whom was referred C. B. No. 52, "An Act to legalize the action of the county commissioners of Gallatin county;" also, C. B. No. 56, "An Act to provide for the support and maintenance of the Butte City fire department;" also, C. B. No. 30, "An Act to provide against accidents in case of fire;" also, C. B. No. 51, "An Act to amend an act to provide for the support and maintenance of the Helena fire department;" also, C. J. M. No. 4 (four copies), in relation to certain territorial officers;" also, C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary," respectfully report the said bills correctly enrolled.

I. I. LEWIS, *Chairman*.

The President announced that he was about to sign C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary."

Mr. Brown reported :

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred C. B. No. 59, "An Act concerning dogs," having carefully examined the same, find the same correctly engrossed.

BROWN, *Chairman*.

MR. PRESIDENT:—Your Committee on Engrossment, to whom was referred substitute for C. B. No. 54, "An Act to amend sections 18 and 19 of an act in relation to roads and highways," approved February 12th, 1876, having carefully examined said bill, find the same correctly engrossed.

BROWN, *Chairman*.

The conference committee reported as follows :

MR. PRESIDENT:—The committee of conference, to whom was referred C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," beg leave to report the same back to the Council, and that the committees have agreed to recommend that the House recede from their amendments to said bill.

Respectfully submitted,

WATSON.
BROWN.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 15th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 57, a bill in relation to printing; H. B. No. 66, "An Act to amend section 4 of an act entitled 'An Act relating to county commissioners;'" and C. B. No. 37, "An Act to provide against accidents in mines," were indefinitely postponed.

That H. J. M. No. 3, and H. B. No. 65, "An Act to amend an act entitled 'An Act to provide for the redemption of the funded debt of Lewis and Clarke county,'" approved February 5th, 1876, have passed the House, and are herewith transmitted.

C. B. No. 21, "An Act to encourage the construction of a railroad from the head of navigation on the Yellowstone to the eastern boundary of Deer Lodge county," was indefinitely postponed in the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 65, "An Act to amend an act entitled 'An Act to provide for the redemption of the funded debt of Lewis and Clarke county,'" approved February 5th, 1876, was read the first and second times, and, on motion of Mr. Tatem, the rules were suspended, the bill read a third time by title, and passed by the following vote:

Ayes—Brown, Constans, Cullen, Ford, Hays, Lewis, Tatem, Waterbury, Watson, and Mr. President—10.

Nays—None.

Absent—Messrs. Allebaugh, Mitchell, and McAdow.

Title agreed to.

H. J. M. No. 3, memorial to the Senate and House of Representatives in Congress assembled, praying for a grant of land in aid of a territorial insane hospital, was read the first and second times.

Mr. Cullen offered the following amendment: Amend by striking out "thirty" and insert "one hundred;" also, before "land" insert "agricultural."

On motion, the amendment was adopted.

On motion of Mr. Mitchell, the Council took a recess for twenty minutes.

Council resumed.

Mr. President announced that he was about to sign C. B. No. 56, "An Act to provide for the support and maintenance of the Butte City fire department;" C. B. No. 51, "An Act to amend an act to provide for the support and maintenance of the Helena fire department;" C. B. No. 52, "An Act to legalize the action of the county commissioners of Gallatin county;" C. B. No. 30, "An Act to provide against accidents in case of fire;" C. J. M. No. 4, in relation to certain territorial officers.

Mr. Cullen moved to adjourn. Lost.

On motion of Mr. Ford, the Council went into executive session.

Council resumed, doors opened, and the Clerk was instructed to enter upon the journal that the Council, in executive session, confirmed the following nominations of the Governor for notaries public:

Oscar C. Mortson, Lewis and Clarke county.

William H. Todd, Chouteau county.

On motion of Mr. Ford, the Council adjourned.

HARRY R. COMLY, *Chief Clerk.*

FORTIETH DAY.

COUNCIL CHAMBER, }
February 16th, 1877. }

Council met at 10 o'clock A. M.—Mr. President in the chair.

Roll called—all present.

Prayer by Rev. E. L. Toy, Chaplain.

Journal of yesterday read and approved.

Mr. Lewis reported :

MR. PRESIDENT:—Your Joint Enrollment Committee of the two Houses of the tenth session of the Legislative Assembly, to whom was referred C. B. No. 43, "An Act to create a good time law for the convicts of the territorial penitentiary," report that they presented the same to the Governor for his action, at 7:45 P. M., February 15th, 1877; also the following bills, to-wit: C. B. No. 52, "An Act to legalize the action of the county commissioners of Gallatin county;" C. B. No. 56, "An Act to provide for the support and maintenance of the Butte City fire department;" C. B. No. 30, "An Act to provide against accidents in case of fire;" C. B. No. 51, "An Act to amend an act to provide for the support and maintenance of the Helena fire department," respectfully report that the same were presented to the Governor, for his action, at 9 P. M., February 15th, 1877.

LEWIS, *Chairman.*

Mr. Watson presented a petition from citizens of Beaver Head county.

Mr. Watson introduced C. B. No. 60, "An Act to provide for the relief of the finances of Beaver Head county." Read first and second times, and, on motion of Mr. Watson, the rules were suspended, read third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nays—None.

Absent—Mr. Ford.

Title agreed to.

Mr. Tatem introduced C. J. M. No. 5, praying for grant of land to aid in construction of railroads. Read first and second times, and Mr. Mitchell moved to suspend the rules and read third time by title; which motion prevailed, and the memorial was read third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Watson—12.

Nay—Mr. President—1.

Title agreed to.

C. J. M. No. 6, asking Congress to aid the Northern Pacific Railroad, was introduced by Mr. Lewis. Read first and second times, and, on motion of Mr. Tatem, the rules were suspended, read third time, and passed by the following vote:

Ayes—Allebaugh, Brown Constans, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nay—Cullen—1.

Title agreed to.

Mr. Cullen reported:

MR. PRESIDENT:—Your Committee on Judiciary, to whom was referred H. B. No. 41, "An Act to protect persons and property," have instructed me to report the same back to the Council, and recommend its passage.

W. E. CULLEN, *Chairman*.

On motion of Mr. Tatem, the report was adopted.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 15th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that the House has concurred in Council amendments to H. B. No. 19.

That the House has receded from its amendments to C. B. No. 28.

That the House refuses to concur in Council amendments to H. B. No. 3, and respectfully asks the Council to recede.

That the House substitute for C. B. No. 32 has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein," was ordered enrolled.

Mr. Tatem moved that the Council insist on its amendments to H. B. No. 3, "An Act to facilitate the conviction of robbers."

A call of the House was ordered.

Roll called—absent, Mr. Waterbury.

Mr. Waterbury appeared in his seat.

On motion of Mr. Brown, further proceedings under the call were dispensed with, and the motion to insist prevailed by the following vote:

Ayes—Brown, Ford, Hays, Lewis, Mitchell, Tatem, and Waterbury—7.

Nays—Allebaugh, Constans, Cullen, McAdow, Watson, and Mr. President—6.

Mr. Watson moved that the Council concur in House substitute to C. B. No. 32, "An Act for the government of unorganized counties;" which motion was lost by the following vote:

Ayes—Allebaugh, Ford, Hays, Lewis, and McAdow—5.

Nays—Brown, Constans, Cullen, Mitchell, Tatem, Waterbury, Watson, and Mr. President—8.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 78, "An Act as to the duties and emoluments of the Secretary of Montana territory," has passed the House, and is transmitted.

Respectfully,
A. H. BARRET, *Chief Clerk.*

The following communication was received from the Governor:

MONTANA TERRITORY, }
EXECUTIVE DEPARTMENT, }
HELENA, February 15th, 1877. }

To the Council:

I have the honor to inform the Council that I have this day, at 1:30 o'clock, approved the following Council Bills, to-wit: C. B. No. 15, entitled "An Act concerning elections;" C. B. No. 44, entitled "An Act to regulate the election of county commissioners," and C. J. R. No. 2, to pay an expert for examining the Treasurer's and Auditor's books.

Also, at 6 o'clock P. M. of the same day, I approved the following bills: C. B. No. 12, entitled "An Act for the benefit of common schools;" C. B. No. 23, "An Act to amend section 4 of an act entitled 'An Act to protect fur-bearing animals and fish in the territory of Montana,'" approved February 5th, 1876; C. B. No. 8, "An Act in relation to swine;" C. B. No. 47, "An Act to establish names to certain streams in Deer Lodge county."

Respectfully,
B. F. POTTS.

Mr. Hays moved that the House be requested to recede from substitute to C. B. No. 32. Lost.

The following report was received:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 74, "An Act to authorize the administrator of the estate of John H. Rodgers, deceased, to sell the property of said estate;" also, H. B. No. 25, "An Act to consoli-

date the county offices of Meagher, Chouteau, Jefferson, Gallatin, and Missoula counties;" also, H. B. No. 23, "An Act to provide for publishing the reports of the supreme court of the territory;" also, H. B. No. 61, "An Act relating to probate courts and estates of deceased persons;" also, H. B. No. 59, "An Act to provide a code of civil procedure in the territory of Montana," find the same correctly enrolled.

LEWIS, *Chairman*.

On motion of Mr. Mitchell, the Council took a recess until 2:30 o'clock P. M.

2:30 O'CLOCK P. M. — Council resumed — Mr. President in the chair.

Roll called — quorum present.

Journal of this morning read and approved.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that the House insist on their disagreement to Council amendments to H. B. No. 3, and request that the Council appoint a conference committee, the House having appointed Messrs. Howell, Sanders (of Lewis and Clarke), and Dixon as such committee on the part of the House.

Respectfully,

A. H. BARRET, *Chief Clerk*.

On motion of Mr. Cullen, the President appointed Messrs. Allebaugh, Watson, and Hays a committee of conference on H. B. No. 3, "An Act imposing certain duties on the Governor."

The President announced that he was about to sign H. B. No. 25, "An Act to consolidate the county offices of Meagher, Chouteau, Jefferson, Gallatin, and Missoula counties;" H. B. No. 74, "An Act

authorizing the administrator of the estate of Jno. H. Rodgers, deceased, to sell the property of said estate;" H. B. No. 33, "An Act to provide for publishing the reports of the supreme court of the territory;" H. B. No. 59, "An Act to provide a code of civil procedure in the territory of Montana;" H. B. No. 61, "An Act relating to probate courts and estates of deceased persons."

Mr. Cullen introduced C. B. No. 61, "An Act to fix the times of holding the regular sessions of the future Legislative Assemblies of the territory of Montana."

On motion of Mr. Brown, the rules were suspended, the bill read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Mitchell, McAdow, Tatem, Watson, and Mr. President—11.

Nays—None.

Absent—Lewis and Waterbury.

Title agreed to.

Mr. Mitchell introduced C. B. No. 62, "An Act to change the name of Big Horn county, Montana territory, to Custer county;" was read the first and second times, and, on motion of Mr. Brown, the rules were suspended, the bill read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

H. B. No. 38, "An Act concerning stallions," was read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, and Watson—11.

Nays—Ford and Mr. President—2.

On motion of Mr. Tatem, the title was amended by adding "and other male animals."

On motion of Mr. Mitchell, a call of the House was ordered.

Roll called—all present.

The following report was received :

MR. PRESIDENT :—The committee of conference on H. B. No. 3, "An Act to facilitate the conviction of criminals," beg leave to remit the same back to the Council, and recommend that the Council recede from their amendment.

Respectfully submitted,

ALLEBAUGH.

HAYS.

WATSON.

Mr. Watson moved to adopt the report ; which motion was lost by the following vote :

Ayes—Allebaugh, Cullen, Hays, McAdow, Watson, and Mr. President—6.

Nays—Brown, Constans, Ford, Lewis, Mitchell, Tatem, and Waterbury—7.

The following report was received :

MR. PRESIDENT :—Your Joint Enrollment Committee of the two Houses of the Tenth Legislative Assembly, to whom was referred H. B. No. 74, H. B. No. 25, H. B. No. 33, H. B. No. 59, and H. B. No. 61, respectfully report that they presented each of said bills to the Governor for his action at 2:50 P. M., February 16th, 1877.

LEWIS, *Chairman*.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT :—I am instructed by the House to inform your honorable body that the following bills have passed the House:

C. B. No. 60, a bill for "An Act to provide for the relief of the finances of Beaver Head county."

Also, H. B. No. 70, "An Act to provide for the care and custody of the arms and ammunition, and other purposes."

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Watson, the rules were suspended, and C. B. No. 60, a bill for "An Act to provide for the relief of the finances of Beaver Head county," was considered an enrolled bill.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—The House directs me to inform your honorable body that C. B. No. 2, "An Act providing for the election of county assessors," has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Cullen, the Council concurred in the House amendments to C. B. No. 3, "An Act providing for the election of county assessors," and the bill was ordered enrolled.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am directed by the House of Representatives to inform your honorable body that H. B. No. 53, a bill for "An Act concerning corporations," has passed the House, and is herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. B. No. 54, "An Act to amend sections 18 and 19 of an act in relation to roads and highways," approved February 12th, 1876, was read a third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, McAdow, Watson, and Mr. President—10.

Nays—Cullen and Tatem—2.

Title agreed to.

C. B. No. 59, "An Act concerning dogs," was read a third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Ford, Hays, Lewis, Mitchell, Tatem, and Waterbury—9.

Nays—Cullen, McAdow, Watson, and Mr. President—4.

Title agreed to.

H. B. No. 41, "An Act to protect persons and property," was read the third time, and passed by the following vote :

Ayes—Allebaugh, Brown, Constans, Cullen, Hays, Lewis, Mitchell, McAdow, Tatem, Watson, and Mr. President—11.

Nay—Ford—1.

Absent—Mr. Waterbury.

Title agreed to.

Mr. McAdow in the chair.

On motion of Mr. Mitchell, substitute for H. B. No. 53 was laid on the table.

H. B. No. 78, "An Act as to the duties and emoluments of the Secretary of the territory of Montana," was read the first time, and Mr. Watson objected, and the bill was rejected by the following vote :

Ayes—Allebaugh, Brown, Hays, Mitchell, Tatem, Waterbury, and Watson—7.

Nays—Constans, Cullen, Ford, Lewis, McAdow—5.

Absent—Mr. President.

The following communication was received :

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that the House insist upon their amendment to C. B. No. 32, and have appointed Messrs. Vivion and Word as a conference committee, and ask the Council to appoint a like committee.

That the House has passed a joint resolution as a substitute for C. C. R. No. 7.

That H. B. No. 46 has passed the House.

That C. B. No. 50 was read the third time and lost.

That C. B. No. 31 was indefinitely postponed.

And are herewith transmitted.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. President appointed Messrs. Hays and Watson a committee of conference on C. B. No. 32, "An Act for the government of unorganized counties."

On motion of Mr. Ford, the Council concurred in House substitute for C. C. R. No. 7, in relation to printing, and it was ordered enrolled.

The following report was received:

MR. PRESIDENT:—Your Joint Enrollment Committee, to whom was referred H. J. R. No. 5, H. J. R. No. 6, H. B. No. 9, H. B. No. 52, C. B. No. 28, H. B. No. 62, H. B. No. 60, H. J. R. No. 2, H. B. No. 75, and H. B. No. 65, report the same correctly enrolled.

LEWIS, *Chairman.*

Mr. President announced that he was about to sign H. B. No. 75, "An Act to amend the Helena incorporation act;" H. B. No. 65, "An Act to amend an act entitled 'An Act to provide for the redemption of the funded debt of Lewis and Clarke county,'" approved February 5th, 1876; H. J. R. No. 6; C. B. No. 28, "An Act to prohibit persons keeping gaming houses from permitting

minors to gamble therein;" H. J. R. No. 2; H. J. R. No. 5; H. B. No. 19, "An Act to amend an act concerning license," approved May 8th, 1873; H. B. No. 60, "An Act to provide for the copying of laws for publication;" H. B. No. 62, "An Act to regulate the sale of water and encourage the pursuits of industry;" H. B. No. 52, "An Act in relation to the collection and disbursement of the revenues of Missoula county, and for other purposes."

H. B. No. 46, a bill exempting the wages of employes from attachment, was read first time, and Mr. Tatem objected, and the bill was rejected.

H. B. No. 70, "An Act to provide for the care and custody of the arms belonging to the territory of Montana, and for other purposes," was read first and second times, and, on motion of Mr. Tatem, the rules were suspended, the bill read third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Mitchell, McAdow, Tatem, Waterbury—10.

Nays—None.

Absent—Lewis, Watson, and Mr. President—3.

Title agreed to.

On motion of Mr. Mitchell, the Council took a recess until 7 o'clock P. M.

7 O'CLOCK P. M.—Council resumed—Mr. President in the chair.

Roll called—quorum present.

Journal of afternoon session read and approved.

Mr. Tatem moved to reconsider the vote by which H. B. No. 53 was laid on the table; which motion prevailed.

Mr. Tatem moved that the rules be suspended, the bill be read first and second times by title, and put upon its third reading and final passage; which motion was lost by the following vote:

Ayes—Allebaugh, Constans, Cullen, Lewis, McAdow, Tatem, and Watson—7.

Nays—Brown, Ford, Hays, Mitchell, Waterbury, and Mr. President—6.

The following reports were received:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred H. B. No. 9, H. B. No. 52, H. B. No. 60, H. B. No. 65, H. B. No. 75, H. B. No. 62, H. J. R. No. 5, H. J. R. No. 6, H. J. R. No. 2, and C. B. No. 28, respectfully report that they presented the same to the Governor for his action, at 4:54 P. M., February 16th, 1877.

LEWIS, *Chairman*.

MR. PRESIDENT:—Your conference committee to whom was referred substitute for C. B. No. 32, have met and conferred with a like committee from the House, and have agreed to recommend that the Council do recede from their objections, and recommend that the Council do concur in said substitute.

HAYS.

WATSON.

Mr. Hays moved to adopt the report, and the motion prevailed by the following vote:

Ayes—Allebaugh, Brown, Ford, Hays, Lewis, McAdow, and Watson—7.

Nays—Constans, Cullen, Mitchell, Tatem, Waterbury, and Mr. President—6.

On motion of Mr. Mitchell, the vote by which the report of the conference committee on H. B. No. 3 was lost, was reconsidered, and, on motion of Mr. Hays, the report was adopted, and the Council receded from their amendments.

Mr. Allebaugh moved to reconsider the vote by which the report of the conference committee on C. B. No. 32 was adopted.

Mr. Ford moved to lay on the table; which motion was lost, and the motion to reconsider prevailed, and the bill ordered back from the Enrollment Committee.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am instructed to inform your honorable body that C. B. No. 61, C. B. No. 62, H. J. R. No. 3, and C. J. M. No. 6, have passed the House, and are herewith transmitted.

That the House refuse to concur in Council amendment to H. B. No. 43, and ask the Council to recede.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. B. No. 61, C. B. No. 62, and C. J. M. No. 6, were ordered enrolled.

On motion of Mr. Watson, the Council adhered to its amendment to H. B. No. 43.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. B. No. 68, a bill for "An Act concerning the county poor," has passed the House.

Also, that substitute for C. B. No. 54, a bill for "An Act to amend sections 18 and 19 of 'An Act in relation to roads and highways,'" approved February 12th, A. D. 1876, was read the third time, and was lost.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. McAdow moved that the vote by which the Council adhered to its amendments to H. B. No. 43, be reconsidered. Carried.

Mr. McAdow moved to concur. Lost.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am directed by the House to inform your honorable body that C. B. No. 35, a bill for “An Act to amend chapter 40 of the codified statutes,” has passed the House, with amendment to the title.

Also, that C. B. No. 59, “An Act concerning dogs,” was read the first time, and rejected.

Also, that H. B. No. 73, “An Act relating to homesteads,” was indefinitely postponed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

On motion of Mr. Ford, the Council concurred in House amendments to C. B. No. 35, and it was ordered enrolled.

H. B. No. 68, “An Act concerning county poor,” was read the first time, and Mr. Mitchell objected, and the bill was rejected.

H. J. R. No. 3, for the relief of Kerley, McQuaid, & Lacroix, was read the first and second times, and, on motion of Mr. Brown, the rules were suspended, read the third time, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, Mitchell, McAdow, Tatem, Waterbury, Watson, and Mr. President—13.

Nays—None.

Title agreed to.

The following report was received:

MR. PRESIDENT:—The select committee to whom was referred H. B. No. 9, “An Act to amend an act entitled ‘An Act to provide a system of common schools,’” beg leave to report the same back to the Council, with the recommendation that it be made the special order for 3 o’clock P. M., to-morrow.

WATSON.

WATERBURY.

On motion of Mr. Watson, H. B. No. 9 was indefinitely postponed.

The following report was received:

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred C. B. No. 60, C. B. No. 2, C. C. R. No. 7, H. B. No. 3, H. B. No. 10, H. B. No. 70, H. B. No. 41, report the same correctly enrolled.

LEWIS, *Chairman*.

The President announced that he was about to sign C. B. No. 2, "An Act providing for the election of county assessors;" H. B. No. 41, "An Act to protect persons and property;" H. B. No. 10, "An Act to authorize holding of county teachers' institutes;" H. B. No. 3, "An Act to facilitate the conviction of robbers;" C. C. R. No. 7; C. B. No. 60, "An Act to provide for the relief of the finances of Beaver Head county;" H. B. No. 70, "An Act to provide for the care and custody of the arms belonging to the territory of Montana, and for other purposes."

On motion of Mr. Mitchell, the Council took a recess for fifteen minutes.

Council resumed.

Journal was approved to this writing.

Mr. Lewis reported:

MR. PRESIDENT:—Your Joint Committee on Enrollment respectfully report that they presented to the Governor for his action, at 8:53 P. M., February 16th, 1877, the following bills: C. B. No. 60, C. B. No. 2, C. C. R. No. 7, H. B. No. 3, H. B. No. 10, H. B. No. 70, and H. B. No. 41.

LEWIS, *Chairman*.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am directed to inform your honorable body that H. B. No. 80, a bill for "An Act relating to the duties of the Territorial Treasurer," has passed the House.

That C. J. M. No. 5 has passed the House.

That C. B. No. 41, "An Act in relation to the redemption of real property," has been indefinitely postponed.

That C. B. No. 58, a bill for "An Act in relation to floating timber in small streams," has been indefinitely postponed.

And that C. B. No. 57, a bill for "An Act authorizing the appointment of deputy assessors," C. B. No. 53, "An Act to exempt certain manufactories from taxation for a term of years," have been indefinitely postponed.

Respectfully,

A. H. BARRET, *Chief Clerk.*

C. J. M. No. 5 was ordered enrolled.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—H. B. No. 81, a bill for "An Act regarding the tenure of subordinate officers," has passed the House.

Respectfully,

A. H. BARRET, *Chief Clerk.*

H. B. No. 81, "An Act regarding the tenure of subordinate officers," was read the first time, and Mr. Mitchell objected, and the motion to reject was lost; the bill was then read the second time, and Mr. Brown moved to indefinitely postpone; lost. The bill was finally referred to the Committee on Military Affairs.

H. B. No. 80, "An Act relating to the duties of the Territorial Treasurer," was read the first and second times, and, on motion of Mr. Brown, the rules were suspended, read the third time by title, and passed by the following vote:

Ayes—Allebaugh, Brown, Constans, Cullen, Ford, Hays, Lewis, McAdow, Tatem, Waterbury, Watson, and Mr. President—12.

Nay—Mitchell—1.

Title agreed to.

On motion of Mr. Brown, the Council took a recess for half an hour.

Council resumed.

Journal approved to this writing.

The following communication was received:

HOUSE OF REPRESENTATIVES, }
February 16th, 1877. }

MR. PRESIDENT:—I am instructed by the House to inform your honorable body that H. C. R. No. 7 has passed the House.

Respectfully,

A. H. BARRET, *Chief Clerk.*

Mr. Lewis reported :

MR. PRESIDENT:—Your Joint Committee on Enrollment, to whom was referred C. J. M. No. 5 (four copies), C. J. M. No. 6 (four copies), C. B. No. 62, C. B. No. 35, report the same correctly enrolled.

LEWIS, *Chairman.*

On motion of Mr. Brown, the Council went into executive session.

Council resumed, doors opened, and the Clerk was directed to enter on the journal that the Council, in executive session, confirmed the following nominations for notaries public, to-wit :

John Morta, of Gallatin county.

Andrew V. Corry, of Madison county.

Mr. Lewis reported :

MR. PRESIDENT:—Your Joint Enrollment Committee report C. B. No. 61 correctly enrolled.

LEWIS, *Chairman.*

The following communication was received :

MONTANA TERRITORY, }
EXECUTIVE DEPARTMENT, }
HELENA, Feb. 16th, 1877. }

To the Council:

I have the honor to inform the Council that, on the 16th of February, 1877, at 10 o'clock A. M. of said day, I approved the fol-

lowing bills, to-wit: C. B. No. 30, entitled "An Act to provide against accidents in case of fire;" C. B. No. 43, entitled "An Act to create a good time law for the convicts of the territorial penitentiary;" C. B. No. 51, entitled "An Act to amend an act to provide for the support and maintenance of the Helena fire department;" C. B. No. 52, entitled "An Act to legalize the action of the county commissioners of Gallatin county;" C. B. No. 56, entitled "An Act to provide for the support and maintenance of the Butte City fire department." Also, at 8 o'clock of said day, I approved C. B. No. 28, entitled "An Act to prohibit persons keeping gaming houses from permitting minors to gamble therein." Also, at 9 o'clock P. M. of said day, I approved the following bills, to-wit: C. B. No. 2, entitled "An Act providing for the election of county assessors;" C. B. No. 60, entitled "An Act to provide for the relief of the finances of Beaver Head county;" and C. C. R. No. 7.

Respectfully,

B. F. POTTS.

On motion of Mr. Brown, Messrs. Brown, Watson, and Ford were appointed to wait on the Governor and inquire if he has any other communications to make to the Council.

The following resolutions were adopted:

Resolved, That the thanks of the Council are due, and are hereby tendered, to the Honorable W. E. Bass, President of the Council, for the able, dignified, and impartial manner in which he has presided over the deliberations of this body.

Resolved, That the thanks of the Council are due, and are hereby tendered, to Harry R. Comly, Chief Clerk; H. C. Lewis, Assistant Clerk; Henry C. Wilkenson, Engrossing Clerk; David Marks, Enrolling Clerk; Otis Strickland, Sergeant-at-Arms; Thos. Daly, Doorkeeper; John McClarnon, Fireman; and Luddie Davis, Page, for the able and efficient manner in which they have performed the duties of their respective positions during the present session.

HAYS.

The President announced that he was about to sign C. B. No. 62, "An Act to change the name of Big Horn county, in Montana

territory, to Custer county;" C. B. No. 35, "An Act to amend chapter 40 of an act entitled 'An Act revising, re-enacting, and codifying the general and permanent laws of Montana,' approved January 12th, 1872;" C. B. No. 61, "An Act to fix the time of holding the regular sessions of the future Legislative Assemblies of the territory of Montana."

Mr. Lewis reported:

MR. PRESIDENT:—Your Joint Enrollment Committee reports H. B. No. 80, and H. J. R. No. 3, correctly enrolled.

LEWIS, *Chairman*.

The President announced that he was about to sign H. B. No. 80, "An Act relating to the duties of the Territorial Treasurer;" C. J. M. No. 5; C. J. M. No. 6; H. J. R. No. 3.

On motion, Ford, Hays, and Tatem were appointed a committee to wait on the House to ascertain if that body had any further communication to make.

The Journal was approved to this writing.

The following report was received:

MR. PRESIDENT:—Your Joint Committee on Enrollment report that they presented to the Governor for his action, at 11:45 P. M., February 16th, 1877, the following bills: C. B. No. 62, C. B. No. 35, C. B. No. 61, H. B. No. 80, and H. J. R. No. 3.

I. I. LEWIS, *Chairman*.

The following communication was received:

MONTANA TERRITORY,
EXECUTIVE DEPARTMENT,
HELENA, February 16th, 1877. }

To the Council:

I have the honor to inform the Council that I have this day, at 11:45 P. M., approved the following bills, to-wit: C. B. No. 35, entitled "An Act to amend chapter 40 of an act entitled 'An Act revising, re-enacting, and codifying the general and permanent laws of Montana,' approved January 12th, 1872; C. B. No. 61, en-

titled "An Act to fix the time of holding the regular sessions of the future Legislative Assemblies of the territory of Montana," and C. B. No. 62, entitled "An Act to change the name of Big Horn county, in Montana, to Custer county."

Respectfully,

B. F. POTTS.

The committee to wait upon the House reported that they had performed that duty, and the House had further communications to make.

The committee from the House inquired of the Council if they had any further communications to make, and were answered by the President in the negative.

The journal, being read to this point, was approved.

On motion of Mr. Brown, the Council adjourned *sine die*.

W. E. BASS,

President of the Council.

HARRY R. COMLY, *Chief Clerk.*

OFFICE OF THE
SECRETARY OF MONTANA, }
HELENA, March 5th, 1877. }

I, James E. Callaway, Secretary of Montana territory, do hereby certify that the foregoing journal of the Council of the Tenth Legislative Assembly of the territory of Montana, is a full and correct copy of the original journal now in my office.

In testimony whereof, I have hereunto set my hand
and affixed the seal of the territory of Montana,
this, the day and year above written.

SEAL.

J. E. CALLAWAY,
Secretary.

